

FILED**DECEMBER 12, 2007**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

3567 MDS/TBU

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION****07 C 6993**COUNTRY MUTUAL INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

MICHAEL HOGAN, JR., UNITED STATES OF)
AMERICA, and the UNITED STATES ARMY)
CORPS OF ENGINEERS,)

Defendants.)

**JUDGE PALLMEYER
MAGISTRATE JUDGE COX****COMPLAINT FOR DECLARATORY JUDGMENT**

NOW COMES the Plaintiff COUNTRY MUTUAL INSURANCE COMPANY ("COUNTRY MUTUAL") by and through its attorneys, PURCELL & WARDROPE, CHTD., and as its Complaint for Declaratory Judgment against Defendants MICHAEL HOGAN, JR. ("HOGAN") states as follows:

General

1. This is an action for declaratory judgment pursuant to 28 U.S.C. §2201 for a judgment that Plaintiff COUNTRY MUTUAL owes no duty to defend or indemnify Defendant HOGAN with respect to a lawsuit filed by the UNITED STATES OF AMERICA.

Parties

2. COUNTRY MUTUAL is an Illinois - domiciled insurance company licensed to write policies of insurance in the State of Illinois and was so licensed at all times relevant herein.

3. HOGAN is an individual who, upon information and belief, resides and conducts business at 6606 Barnard Mill Road, Ringwood, Illinois which is within the Northern District of Illinois.
4. THE UNITED STATES ARMY CORPS OF ENGINEERS ("ARMY CORPS") is an agency of the United States of America. The ARMY CORPS administers a permit system established by Congress relating to the discharge of pollutants into the navigable waters of the United States. The ARMY CORPS is joined as a defendant herein solely to be bound in the judgment rendered in this cause. COUNTRY MUTUAL seeks no specific or affirmative relief against the ARMY CORPS and in the event the ARMY CORPS agrees and stipulates in writing to be bound by the Court's judgment COUNTRY MUTUAL will dismiss it from this action.
5. The UNITED STATES OF AMERICA ("UNITED STATES") filed the lawsuit against HOGAN as described more fully herein. The UNITED STATES is joined as a defendant herein solely to be bound in the judgment rendered in this cause. COUNTRY MUTUAL seeks no specific or affirmative relief against the UNITED STATES and in the event the UNITED STATES agrees and stipulates in writing to be bound by the Court's judgment COUNTRY MUTUAL will dismiss it from this action.

Jurisdiction and Venue

6. Jurisdiction is proper pursuant to 28 U.S.C. §1346 and 28 U.S.C. §1355 because the UNITED STATES and the ARMY CORPS are defendants herein to be bound to the judgment as they have a claim against HOGAN.

7. Venue is proper in this District, pursuant to 28 U.S.C. §1391(a)(2), because the named insured on the insurance policies at issue is a resident of this District, the insurance policies at issue were delivered to the named insured in this District, the lawsuit filed by the UNITED STATES at issue herein was filed in this District, and the matters that were the subject of said lawsuit occurred in this District.

Underlying Lawsuit

8. The UNITED STATES filed a lawsuit in the United States District Court for the Northern District of Illinois, Eastern Division entitled *United States of America v. Michael P. Trinski and Michael G. Hogan* bearing cause number 07 C 3600 (“Underlying Lawsuit”). A copy of the complaint in the Underlying Lawsuit is attached hereto as Exhibit A.
9. The Underlying Lawsuit is a civil action filed by the UNITED STATES for injunctive relief and for civil penalties pursuant to the Clean Water Act 33 U.S.C. §§1311, 1319(b) and 1344 wherein the UNITED STATES alleges HOGAN violated provisions of the Clean Water Act and related regulations.
10. The Underlying Lawsuit alleges HOGAN either owned, leased, or otherwise controlled certain property located in the State of Illinois and within the Northern District of Illinois in McHenry, McHenry County, Illinois. The property allegedly is located at or on Nippersink Creek, a tributary of the Fox River/Chain of Lakes, a navigable – in – fact water of the United States.
11. The UNITED STATES alleges that on or about August 4, 2006, and dates thereafter, the ARMY CORPS inspected aforementioned property and found that HOGAN had deposited, or caused to be deposited, dredged and/or fill material

into Nippersink Creek and/or into or on the wetlands adjacent to Nippersink Creek on said property.

12. The Underlying Lawsuit further alleges that Nippersink Creek is a perennial tributary to the Fox River and Pistakee Lake a navigable water of the United States under the Clean Water Act and that the dredged and/or fill material are pollutants under the Clean Water Act. The Underlying Lawsuit alleges the aforementioned pollutants were discharged into Nippersink Creek or the adjacent wetlands and that HOGAN did not obtain a permit from the ARMY CORPS to discharge those pollutants, and that those pollutants caused injury to the navigable waters of the United States.
13. The UNITED STATES in the Underlying Lawsuit is seeking a judgment against HOGAN requiring them to restore the wetlands and creek at Nippersink Creek, enjoining HOGAN from discharging any pollutants, and requiring to pay a civil penalty not to exceed thirty two thousand, five hundred dollars (\$32,500.00) per day.

Country Mutual Policy

14. COUNTRY MUTUAL issued a Commercial General Liability Policy to HOGAN bearing number AB1547070 which had a policy period of May 16, 2006 through May 16, 2007 (hereinafter "Country Mutual Policy"). A copy of the Country Mutual Policy is attached hereto as Exhibit B.
15. The Country Mutual Policy contains the following terms and conditions:

**AMENDMENT OF INSURING AGREEMENT –
KNOWN INJURY OR DAMAGE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART (OCCURRENCE VERSION)

Paragraph 1. **Insuring Agreement of Section I – Coverage A – Bodily Injury and Property Damage Liability** is replaced by the following:

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of “bodily injury” or “property damage” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking damages for “bodily injury” or “property damage”...
- b. This insurance applies to “bodily injury” and “property damage” only if:
 - (1) The “bodily injury” or “property damage” is caused by an “occurrence” that takes place in the “coverage territory”
 - (2) The “bodily injury” or “property damage” occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no “employee” authorized by You to give or receive notice of an “occurrence” or claim, knew that the “bodily injury” or “property damage” had occurred, in whole or in part. If such a listed insured or authorized “employee” knew, prior to the policy period, that the “bodily injury” or “property damage” occurred, then any continuation, change or resumption of such “bodily injury” or “property damage” during or after the policy period will be deemed to have been known prior to the policy period.

* * *

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

“Bodily injury” or “property damage: expected or intended from the standpoint of the insured. This exclusion does not apply to “bodily injury” resulting from the use of reasonable force to protect persons or property.

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises site or location which is or was at any time occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;
 - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than additional insured; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported , handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or
 - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or directly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor, However, this subparagraph does not apply to:
 - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property dam-

age" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by your or on behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

m. Damage to Impaired Property or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in “your product” or “your work”; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to “your product” or “your work” after it has been put to its intended use.

* * *

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of “personal and advertising injury” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking those damages. However, we will have no duty to defend the insured against any “suit” seeking damages for “personal and advertising injury” to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or “suit” that may result.

2. Exclusions

This insurance does not apply to:

- a. “Personal and advertising injury”:
 - (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict “personal and advertising injury”; ...
 - (4) Arising out of a criminal act committed by or at the direction of any insured;...
 - (10) Arising out of actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants” at any time.
- b. Any loss, cost or expense arising out of any:
 - (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, “pollutants”; or

- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the affects of, “pollutants”.

* * *

SECTION V – DEFINITIONS

8. “Impaired property” means tangible property, other than “your product” or “your work”, that cannot be used or is less useful because:
- a. It incorporates “your product” or “your work” that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- a. The repair, replacement, adjustment or removal of “your product” or “your work”; or
 - b. Your fulfilling the terms of the contract or agreement.
14. “Personal and advertising injury” means injury, including consequential “bodily injury”, arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of the private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services;
 - e. Oral or written publication of material that violates a person’s right of privacy.
 - f. The use of another’s advertising idea in your “advertisement”; or

- g. Infringing on upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
17. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.
18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which he insured submits with our consent.

* * *

POLLUTION AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORMS
BUILDING AND PERSONAL PROPERTY COVERAGE FORM

A. Liability Pollution Exclusion Revision(s)

The following revisions apply to the Commercial General Liability Coverage forms:

1. Under **SECTION 1 - COVERAGE, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, item 2. **Exclusions**, item **f. Pollution**: paragraphs 1(d) and 1(e) are replaced by:

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing, or have completed, operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this paragraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor.

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing, or have completed, operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

2. Under **SECTION V- DEFINITIONS**, item 15. "Pollutants" is replaced by:

(15) "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed. For the purposes of this exclusion, lead of any kind, in whatever form and however used, is considered a pollutant.

This description of lead as a pollutant is by way of clarifying example only and is not to be construed in any way limiting the scope of breadth of this exclusion.

B. Property Pollution Exclusion Revision(s)

The following is added under **B. EXCLUSIONS AND LIMITATIONS** in the Building and Personal Property Coverage Form:

This policy does not cover expenses incurred or loss of use resulting from governmental direction or request to remove or otherwise modify materials present at the insured premises which contain substances deemed hazardous to society. Further, coverage does not apply to fines or penalties assessed due to the existence of, or failure to remove such substances.

This policy does not cover damage, loss of use, or expense caused directly or indirectly by radon gas, radium or any other radioactive substances.

COUNT I

- 1 – 15. COUNTRY MUTUAL realleges Paragraphs 1 – 15 aforesaid as Paragraphs 1 – 15 of Count I as if fully stated herein.
16. The Underlying Lawsuit is not covered under the Country Mutual Policy because the Underlying Lawsuit does not seek recovery for bodily injury or property damage caused by an occurrence as those terms are defined in the Country Mutual Policy.
17. The Underlying Lawsuit is not covered under the Country Mutual Policy because the Underlying Lawsuit does not seek recovery for damages because of “personal and advertising injury” as those terms are defined in the Country Mutual Policy.
18. Consequently, COUNTRY MUTUAL has no duty to provide insurance coverage to HOGAN with respect to the Underlying Lawsuit.
19. There is an actual and justicable controversy between the parties which may be determined by a judgment order of this Court. Pursuant to the terms of 28 U.S.C.

§2201, this Court has the power to declare and adjudicate the rights and liabilities of the parties hereto under the terms and provisions of the policy of insurance referred to herein and to adjudicate the final rights of all parties and give such other and further relief as may be necessary to enforce same.

WHEREFORE, the Plaintiff, COUNTRY MUTUAL INSURANCE COMPANY requests this Court to find and declare as follows:

1. The Country Mutual Policy does not provide insurance coverage for the Underlying Lawsuit;
2. COUNTRY MUTUAL is not obligated to defend or indemnify HOGAN with respect to the Underlying Lawsuit;
3. Granting COUNTRY MUTUAL all other further relief this Court deems proper.

COUNT II

1 – 15. Pleading in the alternative and without prejudice to other allegations, COUNTRY MUTUAL realleges Paragraphs 1 – 15 aforesaid as Paragraphs 1 –15 of Count II as if fully stated herein.

16. The Underlying Lawsuit is excluded from coverage by Exclusion A (expected or intended) found within Coverage Part A of the Country Mutual Policy.
17. Alternatively, the Underlying Lawsuit is excluded from coverage by Exclusion F (pollution) found within Coverage Part A of the Country Mutual Policy.
18. Alternatively, the Underlying Lawsuit is excluded from coverage by Exclusion M (impaired property) found within Coverage Part A of the Country Mutual Policy.
19. Alternatively, the Underlying Lawsuit is excluded from coverage by Exclusion A(1) found within Coverage Part B of the Country Mutual Policy.

20. Alternatively, the Underlying Lawsuit is excluded from coverage by Exclusion A(4) found within Coverage Part B of the Country Mutual Policy.
21. Alternatively, the Underlying Lawsuit is excluded from coverage by A(10) found within Coverage Part B of the Country Mutual Policy.
22. Alternatively, the Underlying Lawsuit is excluded from coverage by Exclusion b(1) and/or b(2) found within Coverage Part B of the Country Mutual Policy.
23. Alternatively, the Underlying Lawsuit is excluded from coverage by the Pollution Amendatory Endorsement of the Country Mutual Policy.
24. No exceptions apply to prevent the application of the aforementioned exclusions.
25. Consequently, COUNTRY MUTUAL has no duty to provide insurance coverage to HOGAN with respect to the Underlying Lawsuit.
26. There is an actual and justicable controversy between the parties which may be determined by a judgment order of this Court. Pursuant to the terms of 28 U.S.C. §2201, this Court has the power to declare and adjudicate the rights and liabilities of the parties hereto under the terms and provisions of the policy of insurance referred to herein and to adjudicate the final rights of all parties and give such other and further relief as may be necessary to enforce same.

WHEREFORE, the Plaintiff, COUNTRY MUTUAL INSURANCE COMPANY, pleading in the alternative and without prejudice to its other allegations, requests this Court to find and declare as follows:

1. The Underlying Lawsuit is excluded from coverage under Country Mutual Policy;
2. COUNTRY MUTUAL is not obligated to defend or indemnify HOGAN with respect to the Underlying Lawsuit;

3. Granting COUNTRY MUTUAL all other further relief this Court deems proper.

COUNT III

1 – 15 Pleading in the alternative and without prejudice to other allegations, COUNTRY Mutual realleges Paragraphs 1 – 15 aforesaid as Paragraphs 1 – 15 of Count III as if fully stated herein.

16. The Country Mutual Policy does not provide coverage for the injunctive relief requested by each count of the complaint in the Underlying Lawsuit because injunctive relief does not seek recovery for monetary damages as required by the Country Mutual Policy.
17. Consequently, Country Mutual is not obligated to provide insurance coverage for any injunctive relief ordered against HOGAN with respect to the Underlying Lawsuit.
18. There is an actual and justicable controversy between the parties which may be determined by a judgment order of this Court. Pursuant to the terms of 28 U.S.C. §2201, this Court has the power to declare and adjudicate the rights and liabilities of the parties hereto under the terms and provisions of the policy of insurance referred to herein and to adjudicate the final rights of all parties and give such other and further relief as may be necessary to enforce same.

WHEREFORE, the Plaintiff, COUNTRY MUTUAL INSURANCE COMPANY, pleading in the alternative and without prejudice to its other allegations, requests this Court to find and declare as follows:

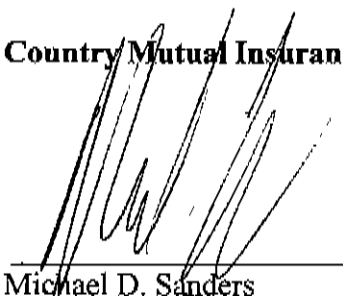
1. There is no coverage under the Country Mutual Policy for the injunctive relief requested by the Underlying Lawsuit;

- 2 COUNTRY MUTUAL is not obligated to provide insurance coverage for any injunctive relief ordered against HOGAN with respect to the Underlying Lawsuit;
3. Granting COUNTRY MUTUAL all other further relief this Court deems proper.

Respectfully submitted,

Country Mutual Insurance Company

By:


Michael D. Sanders

Michael D. Sanders, Esq.
Thomas B. Underwood, Esq.
PURCELL & WARDROPE, CHTD.
10 South LaSalle Street, Suite 1200
Chicago, Illinois 60603
(312) 427-3900
(312) 427-3944 (facsimile)

AO 440 (Rev. 05/00) Summons in a Civil Action

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

SUMMONS IN A CIVIL CASE

Plaintiff,

v.

CASE NUMBER: 07 C 3600

MICHAEL TRINSKI and MICHAEL
HOGAN JR.,

ASSIGNED JUDGE: GOTTSCHALL

DESIGNATED
MAGISTRATE JUDGE: Valdez

Defendants.

To: (name and address of defendant)

Michael Hogan Jr.
Hogan Excavating
6606 Barnard Mill Road
Ringwood, Illinois 60072

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY: (name and address)

PATRICK J. FITZGERALD
United States Attorney
219 South Dearborn Street, 5th Floor
Chicago, Illinois 60604
Attn: KURT N. LINDLAND
Assistant United States Attorney

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

MICHAEL W. DOBBINS, CLERK

Espinoza
(BY) DEPUTY CLERK

AUG 09 2007

DATE

PLAINTIFF'S
EXHIBIT

A

FILED

JUNE 26, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUDGE GOTTSCHALL
MAGISTRATE JUDGE VALDEZ

UNITED STATES OF AMERICA,

Plaintiff,

v.

No.

MICHAEL P. TRINSKI, and MICHAEL G.
HOGAN, Jr.,

Defendants.

07 C 3600

WAH

COMPLAINT

The United States of America, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, on behalf of the United States Army Corps of Engineers ("Corps of Engineers"), complains as follows:

Introduction

1. This is a civil action for injunctive relief and for civil penalties pursuant to the Clean Water Act, 33 U.S.C. §§ 1311, 1319(b) and 1344.

2. In 1972, Congress enacted the Clean Water Act "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

3. To this end, the Clean Water Act prohibits discharging dredged and fill material into navigable waters of the United States without a permit from the Corps of Engineers. 33 U.S.C. §§ 1311(a), 1344, 1362(6), (7) and (12).

4. "Discharge of a pollutant" includes any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12).

5. "Pollutant" includes dredged spoil, rock, sand and cellar dirt. 33 U.S.C. § 1362(6).

6. "Navigable waters" include "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7).

7. "Point source" includes a "discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).

8. "Person" includes "an individual or corporation." 33 U.S.C. § 1362(5).

9. Under section 404 of the Clean Water Act, 33 U.S.C. §§ 1344, Congress established a permit system for the discharge of pollutants (dredged and fill material) to be administered by the Corps of Engineers.

10. Discharge of dredged or fill material into the waters of the United States is prohibited by Section 301, unless authorized by a permit issued pursuant to Section 404 of the Clean Water Act.

11. Section 309 of the Clean Water Act, 33 U.S.C. § 1319(b) authorizes the United States to bring a civil action for appropriate relief, including a permanent or temporary injunction for violations of the Clean Water Act. Also, Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), authorizes the court to impose a civil penalty of up to \$25,000 per day for each violation. For violations occurring after March 15, 2004, the maximum penalty under the Clean Water Act is \$32,500 per day for each violation. 40 C.F.R. Part 19.4.

Jurisdiction and Venue

12. The court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and 33 U.S.C. §§ 1311, 1319(b) and 1344.

13. Venue is proper in this district pursuant to 28 U.S.C. § 1391 in that the alleged violations of the Clean Water Act occurred in the Northern District of Illinois and defendants are located in the Northern District of Illinois.

Parties

14. The plaintiff is the United States of America. The United States Attorney is authorized to bring this action pursuant to 33 U.S.C. §§ 1319(b), 1344, and 28 U.S.C. § 516.

15. Defendant, Michael P. Trinski, owns and/or operates real property located at the corner of Route 12 and Fox Lake Road, McHenry County, Illinois. Upon information and belief,

Michael P. Trinski resides at 1121 W. Fortress Dr., McHenry, Illinois 60050, which is within the Northern District of Illinois and is subject to the jurisdiction of this court.

16. Defendant, Michael G. Hogan Jr. owns and operates an excavating company known as Hogan Excavating which has its principal place of business at 6606 Barnard Mill Road, Ringwood, McHenry County, Illinois. Upon information and belief, defendant Michael G. Hogan resides at 6606 Barnard Mill Road, Ringwood, McHenry County, Illinois, which is within the Northern District of Illinois and is subject to the jurisdiction of this court.

17. Michael P. Trinski is a "person" under the Clean Water Act, 33 U.S.C. § 1362(5).

18. Michael G. Hogan Jr. is a "person" under the Clean Water Act, 33 U.S.C. § 1362(5).

19. At all times relevant to the complaint, the defendants either owned, leased or otherwise controlled the property that is the subject of this complaint, as described in this paragraph, and/or otherwise controlled the activities that occurred on such property. The approximate 27-acre property is located in the State of Illinois and within the Northern District of Illinois at the southeast corner of Route 12 and Fox Lake Road, McHenry County, Illinois, at 201 and 301 West Route 12, McHenry, Illinois, legally described as NE 1/4 Section 5 T45N R9E 3rd P.M., McHenry County, Illinois, PIN 10-05-226-004. The subject property is located at or on Nippersink Creek, a tributary of the Fox River/Chain-of-Lakes, a navigable-in-fact water of the United States. The subject property is hereinafter referred to as the "Trinski Site."

Background of the Defendants

20. On or about January 15, 2003, the Corps of Engineers issued a cease and desist order to defendant Michael P. Trinski due to discharges of pollutants without a Corps of Engineers permit at the Trinski Site. Those discharges occurred in connection with the installation of a culvert.

21. On or about January 12, 2005, the United States filed a civil action, *United States v. Michael P. Trinski and Arrow Marine Inc.*, Case No. 05 C 0197, alleging that Michael P. Trinski, and his marina, Arrow Marine, Inc., were liable for alleged violations of the Clean Water Act, 33 U.S.C. §§ 1319(b), 1319(d) and 1344, and the Rivers and Harbors Act of 1899, 33 U.S.C. § 403,

29. The unauthorized work of defendants described in paragraphs 23 through 28 above constituted violations of 33 U.S.C. §§ 1311, 1319(b) and 1344, and caused injury to navigable waters of the United States.

30. To date, pollutants that were deposited into Nippersink Creek and/or into or on the wetland adjacent to Nippersink Creek described in paragraphs 23 through 29 above, without a permit from the Corps of Engineers, have not been removed.

31. Each day the discharged pollutants remain in Nippersink Creek and/or in or on the wetland adjacent to Nippersink Creek, without the required permit issued pursuant to 33 U.S.C. § 1344, constitutes a day of violation of 33 U.S.C. § 1311.

32. Under the terms of 33 U.S.C. §§ 1319(b), 1319(d) and 1344, and 40 C.F.R. Part 19.4, defendants are liable to the United States for equitable and injunctive relief and are subject to a civil penalty not to exceed \$32,500 per day for each violation.

Prayer For Relief

WHEREFORE, the United States of America seeks a judgment against defendants Michael P. Trinski and Michael G. Hogan, Jr.:

- a. requiring the defendants to restore the Trinski Site to its pre-disturbance condition;
- b. enjoining defendants from discharging any pollutant into navigable waters of the United States without a permit;
- c. requiring defendants to pay a civil penalty not to exceed \$32,500 per day for each violation of the Clean Water Act;

- d. awarding the United States its costs in connection with this action; and
- e. awarding the United States such further relief as this court deems just.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: s/ Kurt N. Lindland
KURT N. LINDLAND
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-4163

COUNTRY

Insurance & Financial Services

COUNTRY Mutual Insurance Company

NAMED INSURED:

HOGAN MICHAEL JR
DBA MICHAEL HOGAN JR CO
6616 BARNARD MILL RD
RINGWOOD IL 60072

**SPECIAL BUSINESS OWNERS POLICY
COMMON POLICY DECLARATIONS**

BILLING NUMBER	POLICY NUMBER	INSURANCE OFFICE/AGENT NO.
6268742	A12B 1547070	12050 MCHEN/13994 *

AGENT'S NAME: NATHAN B GARDNER
AGENTS PHONE NO. (815) 678-2941

TO REPORT A CLAIM ANY TIME DAY OR NIGHT,
CALL 1-800-846-0100.

Contractor Policy

POLICY PERIOD: **From 05/16/2006 To 05/16/2007 12:01 A.M.** Standard Time At Your Mailing Address Above.

INSURED ENTITY: SOLE PROPRIETORSHIP

DECLARATIONS EFFECTIVE DATE: 05/16/2006

PAYMENT METHOD: QUARTERLY

DECLARATIONS REASON:
POLICY RENEWAL

INSURED'S BUSINESS: EXCAVATION

In return for payment of the premium and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy. This policy consists of the following coverage parts. This premium may be subject to adjustment.

COVERAGE DESCRIPTION	PREMIUM
COMMERCIAL PROPERTY COVERAGE PART	\$154.00
COMMERCIAL GENERAL LIABILITY COVERAGE PART	1,059.00
COMMERCIAL INLAND MARINE COVERAGE PART	3,073.00
COVERAGE FOR CERTIFIED ACTS OF TERRORISM	INCLUDED
Total Annual Premium	\$ 4,286.00
Non-Preferred Payment Plan Charge	\$ 128.70

AVOID PAYING UNNECESSARY PREMIUMS:

If you hire contractor(s) or subcontractor(s) you must obtain a Certificate of Insurance Indicating that the contractor(s) or subcontractor(s) had insurance coverage during the period the work was performed. The certificate of insurance must be made available at the time of premium audit.

THIS IS NOT A PREMIUM NOTICE

COUNTERSIGNED AT BLOOMINGTON, IL

91606IL(00-04/01/90)

4/10/2006

DATE

AUTHOR

Douglas M. Bazz

**SCHEDULE OF
LOCATIONS/THIRD PARTY INTERESTS**

Insurance & Financial Services

Country Mutual Insurance Company
P.O. Box 2100, Bloomington, IL 61702-2100

BILLING NUMBER	POLICY NUMBER	INSURANCE OFFICE/AGENT NO.
6268742	A12B 1547070	12050 MCHEN/13994 *
NAMED INSURED		
HOGAN MICHAEL JR		

DECLARATIONS EFFECTIVE: 05/16/2006

ADDITIONAL NAMED INSURED	
NAME/ADDRESS	

None

LOCATION OF COVERED PREMISES	
PREM. NO.	LEGAL DESCRIPTION
1	6606 BARNARD MILL RD RINGWOOD IL MCHENRY COUNTY

MORTGAGE HOLDER AND LOSS PAYABLE SCHEDULE	
NAME/ADDRESS	

Inland Marine-Loss Payable:
Loan No 39152479002
Illinois State Bank
1301 Pyott Rd Ste 100
Lake In the Hills IL 60156

Limited To: Tb20

COUNTRY

Insurance & Financial Services

COUNTRY Mutual Insurance Company

**COMMERCIAL PROPERTY
COVERAGE PART DECLARATIONS**

BILLING NUMBER	POLICY NUMBER	INSURANCE OFFICE/AGENT NO.
6268742	A12B 1547070	12050 MCHEN/13994 *
NAMED INSURED		
HOGAN MICHAEL JR		

DECLARATIONS EFFECTIVE: 05/16/2006

Insurance is provided against only those causes of loss and for only those coverage indicated below. See endorsement listing and location listing for further information.

PREM NO	BLDG NO	DESCRIPTION OF COVERED OCCUPANCY	PROPERTY CONSTRUCTION	FIRE PROTECTION
1	1	EXCAVATION CONTRACTORS STORAGE	FRAME	06
1	2	EXCAVATION CONTRACTORS STORAGE	FRAME	06

PREM NO	BLDG NO	COVERAGES PROVIDED	LIMIT OF INSURANCE	CO-INS	PROPERTY VALUATION	CAUSE OF LOSS	DED	PREMIUM
1	1	Personal Property	\$ 1,000	90%	Actual Cash Value	Special	\$ 1,000.00	\$ 29.00
1	2	Building	25,000	90%	Actual Cash Value	Special	1,000.00	125.00

One Property Deductible Applies Per Occurrence

TOTAL PREMIUM FOR THIS COVERAGE PART**\$ 154.00**

COUNTRY

Insurance & Financial Services

COUNTRY Mutual Insurance Company
P.O. Box 2100, Bloomington, IL 61702-2100

BILLING NUMBER	POLICY NUMBER	INSURANCE OFFICE/AGENT NO.
6268742	A12B 1547070	12050 MCHEN/13994 *
NAMED INSURED		
HOGAN MICHAEL JR		

DECLARATIONS EFFECTIVE: 05/16/2006

LIMITS OF INSURANCE

GENERAL AGGREGATE LIMIT (Other than Products/Completed Operations)	\$ 1,000,000
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT	1,000,000
PERSONAL AND ADVERTISING INJURY LIMIT	500,000
EACH OCCURRENCE LIMIT	500,000
FIRE DAMAGE LIMIT (Any One Fire)	50,000
MEDICAL EXPENSE LIMIT (Any One Person)	5,000

PREM NO	CLASS CODE	DESCRIPTION	PREMIUM BASIS	RATE BASIS	RATE	ADVANCE PREMIUM (COVERAGE)
1	20616	ADDITIONAL INSURED-MULTIPLE INTEREST	0 Each	Per Each	26.642	\$ 0.00 A
1	94007	EXCAVATION	20,000 Payroll	Per 1000	41.139	823.00 A
1	94007	EXCAVATION	20,000 Payroll	Per 1000	6.809	136.00 P

*Coverage: P is for Products/Completed Operations A is for All Other Hazards

EXPENSE CONSTANT	100.00
TOTAL ADVANCE PREMIUM FOR THIS COVERAGE PART	\$ 1,059.00

COUNTRY.

Insurance & Financial Services

COUNTRY Mutual Insurance Company

**COMMERCIAL INLAND MARINE
COVERAGE - ART DECLARATIONS**

BILLING NUMBER	POLICY NUMBER	INSURANCE OFFICE/AGENT NO.
6268742	A12B 1547070	12050 MCHEN/13994 *
NAMED INSURED		
HOGAN MICHAEL JR		

DECLARATIONS EFFECTIVE: 05/16/2006

DESCRIPTION OF COVERAGES PROVIDED	LIMIT OF INSURANCE	DEDUCTIBLE	PREMIUM
Contractors Equipment Special Coverage As Per Tb20	\$ 372,000	\$ 250.00	\$ 3,073.00

TOTAL PREMIUM FOR THIS COVERAGE PART**\$ 3,073.00**

COUNTRY

Insurance & Financial Services

Country Mutual Insurance Company
P.O. Box 2100, Bloomington, IL 61702-2100**FORMS AND ENDORSEMENTS**

BILLING NUMBER	POLICY NUMBER	INSURANCE OFFICE/AGENT NO.
6268742	A12B 1547070	12050 MCHEN/13994 *
NAMED INSURED		
HOGAN MICHAEL JR		

DECLARATIONS EFFECTIVE: 05/16/2006

ENDORSEMENTS APPLICABLE TO ALL COVERAGE PARTS

BA3564(03/2000), BA3586(03/2000), BA3797(03/2000), IL0985(01/2003), IL0975(11/2002)

APPLICABLE PROPERTY FORMS AND ENDORSEMENTS

CP0090(07/1988), CP0010(06/1995), CP1030(06/1995), IL0970(11/2002), BP4844(02/2005)

APPLICABLE CRIME FORMS AND ENDORSEMENTS**APPLICABLE LIABILITY FORMS AND ENDORSEMENTS**

✓ BG0131(02/2005), CG0001(07/1998), IL0021(11/1994), CG2172(12/2002), , CG2167(04/2002), CG2146(07/1998), CG0057(09/1999), CG0067(03/2005), , CG2294(10/2001), CG2196(03/2005), CG2426(07/2004)

APPLICABLE INLAND MARINE FORMS AND ENDORSEMENTS

BN3540(03/2000), BN3516(03/2000), CM0001(06/1995), CM0128(03/1999), ✓ TB20(03/2000), TB23(03/2000)

APPLICABLE BOILER AND MACHINERY FORMS AND ENDORSEMENTS**APPLICABLE EQUIPMENT BREAKDOWN FORMS AND ENDORSEMENTS**

Special Business Owners Policy



Insurance & Financial Services

COUNTRY Mutual Insurance Company®

We're happy to serve you . . .

COUNTRY Insurance & Financial Services is a group of companies offering you convenient insurance and comprehensive financial solutions to fit your needs. The declarations page of your Special Business Owners Policy shows all your coverages, limits and the company issuing your policy. We believe this policy provides the best solution to your business insurance needs available in the market today.

Everything about this policy has been designed with you, the client, in mind - from its organization to its easy-to-understand language. Please note the Definitions section for words you'll find in boldface type throughout your policy.

We urge you to read this policy carefully. Your COUNTRY agent will welcome your call if you have any questions.

The insurance provided by this policy is subject to the following conditions.

The premium shown on each declarations page contained in the policy was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

A. ADDITIONAL PREMIUM AUDIT CONDITIONS

1. You must pay premiums developed by a premium audit when due, subject to the terms of the audit conditions in each applicable coverage form. If you do not pay audit premiums when due, we have the right to cancel your policy that is in effect on or after the due date of the audit premium. Our right to cancel applies to the policy renewal or continuation which provides the same or similar coverage to which the unpaid audit premium applies. We have this right even if you have paid other premiums due on past or current policies.

2. We may adjust this policy's advance or deposit premium during the current policy term based on our premium audit for the most recent previous policy term, according to the terms of the audit conditions in each applicable coverage form. If the adjustment results in additional premium, that premium is due and payable on notice to the first Named Insured. If the adjustment results in premium reduction, we will return the excess premium to the first Named Insured.

B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. CONTINUOUS RENEWAL

Subject to our consent and subject to our premiums, rules and forms then in effect, this policy may be continued in force for each successive policy term. When we consent to renew this policy, the renewal premium must be paid in advance. If the renewal premium is not paid, coverage will cease on the coverage termination date. Payment received after the renewal date will be considered a nonbinding application to replace the lapsed policy.

D. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

E. INSPECTION AND SURVEYS

We have the right to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or

2. Comply with laws, regulations, codes or standards. However, this paragraph does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

This condition (E) applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

F. NO ACTION AGAINST COUNTRY INSURANCE & FINANCIAL SERVICES

Nothing in this policy gives any person, organization, corporation or other entity any rights or causes of action against any parent corporation, affiliate or subsidiary of the company issuing this policy. No rights are created or implied against any member of COUNTRY Insurance & Financial Services other than the company described on the declarations page.

G. PREMIUMS

The first Named Insured shown in the declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

H. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

The following General Policy Conditions apply to COUNTRY Mutual Insurance Company.

A. Mutuality of Policy. By accepting this policy, you become a member of COUNTRY Mutual Insurance Company with all the rights and privileges of a member as provided in the COUNTRY Mutual By-Laws in force at the time this policy takes effect, or that may become in force during the continuance of this policy. Upon lapse or other termination of this policy, you will cease to be a member of COUNTRY Mutual and your rights and interests in COUNTRY Mutual will terminate. The insured agrees to cooperate with us in preventing losses insofar as possible to the end that the cost of insurance may be reduced to the lowest point consistent with solvency and sound insurance protection.

- B. Policy Non-assessable.** This policy will be without contingent liability and is non-assessable.
- C. Participation in Savings and Earnings.** This policy is on the mutual or participating plan, and you, during the continuance of this policy, will be entitled to participate in COUNTRY Mutual's savings and earnings as the Board of Directors may determine.

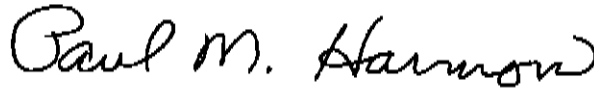
- D. Annual Meeting.** The annual meeting of the members will be held at our principal or home office unless a different place is fixed by the Board of Directors, at an hour and on a day in each year to be set by the Board of Directors. The notice of any meeting of members will fix the hour, day and place of such meeting.

This policy is signed by the President and Secretary and countersigned on the declarations page by an authorized representative.



Philip Nelson
President

COUNTRY Mutual Insurance Company



Paul M. Harmon
Secretary

COUNTRY Mutual Insurance Company
A Mutual Company

Should you have a complaint regarding this policy, you may contact:

Manager, Policyholder Relations
P.O. Box 2100
Bloomington, Illinois 61702-2100
Telephone 800-927-3678

or the -

Public Service Division
State of Illinois
Department of Insurance
Springfield, Illinois 62767

POLICY NUMBER: A12B 1547070

BG 0131

(02-05)

EFFECTIVE DATE: 05/16/2006

ADDITIONAL INSURED - MULTIPLE INTERESTS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

As per Certificate of Insurance or other documents received in the Home Office. Subject to Audit.

WHO IS AN INSURED (Section II) is amended to include as an insured any person(s) or organization(s) shown in the Schedule, but only with respect to liability arising out of your operations or premises owned, leased, or rented by you, subject to the following.

If the person(s) or organization(s) shown in the Schedule:

1. Is a mortgagee, assignee, or receiver;

- a. This insurance is limited to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance or use of premises you lease or occupy.
- b. This insurance does not apply to structural alterations, new construction or demolition operations performed by or for that person or organization.

2. Is a manager of premises you lease or is an owner or another interest from whom you have leased land, this insurance is limited to their liability arising out of the ownership, maintenance or use of that part of the premises or land leased to you, and subject to the following additional exclusions.

This insurance does not apply to:

- a. Any "occurrence" which takes place after you cease to be a tenant in that premises or lease the land.
- b. Structural alterations, new construction or demolition operations performed by or for that person or organization.

3. Has financial control of you; or who owns, maintains or controls premises you lease or occupy;

- a. This insurance is limited to their liability arising out of their financial control of you; or premises they own, maintain or control while you lease or occupy these premises.
- b. This insurance does not apply to structural alterations, new construction or demolition operations performed by or for that person or organization.

4. Is a grantor of a franchise to you, this insurance is limited to their liability as a grantor of a franchise to you.

5. Is a concessionaire trading under your name, this insurance is limited to their liability as a concessionaire, trading under your name.

6. Is a co-owner of premises you own, this insurance is limited to their liability as co-owner of the premises you own.

7. Leases equipment to you, this insurance is limited to their liability for "bodily injury", "property damage", or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s). With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
- (2) The "bodily injury" or "property damage" occurs during the policy period.

- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal and Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

- a. "Personal and advertising injury":
- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
 - (2) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
 - (3) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
 - (4) Arising out of a criminal act committed by or at the direction of any insured;
 - (5) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;

- (6) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
 - (7) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
 - (8) Arising out of the wrong decision of the price of goods, products or services stated in your "advertisement";
 - (9) Committed by an insured whose business is advertising, broadcasting, publishing or telecasting. However, this exclusion does not apply to Paragraphs 14.1., b. and c. of "personal and advertising injury" under the Definitions Section; or
 - (10) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.
- b. Any loss, cost or expense arising out of any:
- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:
- (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
- (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expense for "bodily injury":

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.

- e. All costs paid against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

- (a) Obtain records and other information related to the "suit"; and
- (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

- a. Your "employees", other than either our "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" is an insured for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) with respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
- "Bodily injury" to a co-"employee" of the person driving the equipment; or
 - "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
- Insureds;
 - Claims made or "suits" brought; or
 - Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:
- Medical expenses under Coverage C;
 - Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
- Damages under Coverage A; and
 - Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

1. Bankruptcy

bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue in this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over:

(1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability.

(2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or

c. All parts of the world if:

(1) The injury or damage arises out of:

- (a) Goods or products made or sold by you in the territory described in a. above; or
- (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and

(2) The insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

- c. While it is being moved from aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

13. "Occurrence" means an accident, including or repeated exposure to substantially the same harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Your product" means:

- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
- b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- b. The providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

21. "Your work" means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- b. The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF
TRANSPORTATION
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limits of liability; or
- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
- (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "Special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";

- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR, BIOLOGICAL OR CHEMICAL TERRORISM EXCLUSION (OTHER THAN CERTIFIED ACTS OF TERRORISM); CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of an "other act of terrorism" that is not a "certified act of terrorism". However, this exclusion applies only when one or more of the following are attributed to such act:

1. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
2. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
3. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

B. The following definitions are added:

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes, but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.
2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":
 - a. The act resulted in aggregate losses in excess of \$5 million; and
 - b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

3. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. However, "other act of terrorism" does not include an act which meets the criteria set forth in Paragraph b. of the definition of "certified act of terrorism" when such act resulted in aggregate losses of \$5 million or less. Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.
- C. In the event of an "other act of terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.
- D. With respect to any one or more "certified acts of terrorism", we will not pay any amounts for which we are not responsible under the terms of the federal Terrorism Risk Insurance Act of 2002 (including subsequent acts of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

- B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

- C. The following definition is added to the Definitions Section:**

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ABUSE OR MOLESTATION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. The actual or threatened abuse or molestation by any one of any person while in the care, custody or control of any insured, or

2. The negligent:

- a. Employment;
- b. Investigation;
- c. Supervision;
- d. Reporting to the proper authorities, or failure to so report; or
- e. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by Paragraph 1. above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF INSURING AGREEMENT - KNOWN INJURY OR DAMAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART (OCCURRENCE VERSION)

Paragraph 1. Insuring Agreement of Section I - Coverage A - Bodily Injury And Property Damage Liability is replaced by the following:

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - VIOLATION OF STATUTES THAT GOVERN E-MAILS, FAX, PHONE CALLS OR OTHER METHODS OF SENDING MATERIAL OR INFORMATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2.,
Exclusions of Section I - Coverage A - Bodily
Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

**DISTRIBUTION OF MATERIAL IN
VIOLATION OF STATUTES**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003 including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

- B. The following exclusion is added to Paragraph 2.,
Exclusions of Section I - Coverage B - Personal
And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

**DISTRIBUTION OF MATERIAL IN
VIOLATION OF STATUTES**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - DAMAGE TO WORK PERFORMED BY SUBCONTRACTORS ON YOUR BEHALF

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion I. of **Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

I. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SILICA OR SILICA-RELATED DUST EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
- b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

- B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Silica Or Silica-Related Dust

- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
 - b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:**
1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
 2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF INSURED CONTRACT DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph 9. of the **Definitions** Section is replaced by the following:

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

INLAND MARINE CHANGES ENDORSEMENT

This endorsement modifies insurance provided under the following coverage forms:

ANIMAL COVERAGE FORM	FINE ARTS COVERAGE FORMS
BAILEE COVERAGE FORMS	INSTALLATION COVERAGE FORMS
BAILEE COVERAGE FORMS FOR	COMPUTER AND OFFICE MACHINES COVERAGE
LAUNDRIES AND DRY CLEANERS	FORM
COLD STORAGE LOCKER COVERAGE FORMS	MISCELLANEOUS PROPERTY COVERAGE FORMS
CONTRACTORS' EQUIPMENT COVERAGE FORMS	TRANSPORTATION COVERAGE FORMS

A. INLAND MARINE DEFINITIONS

1. The words "you" and "your" refer to the Named Insured shown in the declarations.
2. The words "we", "us", and "our" refer to the Company providing this insurance.
3. "Insured" means you. With respect to Covered Property that is not used for "business", the word "insured" also means:
 - a. your spouse;
 - b. your relatives if residents of your household;
 - c. persons under the age of 21 in your care or the care of your relatives; or
 - d. your legal representative if you die while insured by this policy. Your legal representative is only an "insured" for the Covered Property.
4. "Business" means a trade, profession or occupation whether full or part time. This includes:
 - a. the rental of property to others, and
 - b. farming.
5. "Described premises" means that part of the building and grounds which you occupy at the location shown in the declarations.
6. "Loss" means accidental loss or accidental damage.
7. "Pollutant" means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste materials. Waste materials include materials which are intended to be or have been recycled, reconditioned or reclaimed. For the purposes of this exclusion, lead of any kind, in whatever form and however used, is considered a "pollutant". This description of lead as a "pollutant" is by way of clarifying example only and is not to be construed in any way limiting the scope or breadth of this exclusion.
8. "Terms" means the conditions, definitions, exclusions, limitations and provisions which apply to this insurance.

B. EXCLUDED CAUSES OF LOSS

1. We will not pay for a "loss" caused by or resulting from any of the following:
 - a. Delay, loss of use, loss of market, or any other consequential "loss".
 - b. A dishonest or criminal act committed by:
 - (1) you, any of your partners, employees, directors, limited liability company members, trustees, or authorized representatives;
 - (2) anyone else with an interest in the property, or their employees or authorized representatives; or
 - (3) anyone else to whom the property is entrusted for any purpose.

This exclusion applies whether or not such persons are acting alone or in collusion with other persons, or such acts occur during the hours of employment. This exclusion does not apply to Covered Property that is entrusted to others who are carriers for hire, or to acts of destruction by your employees. But we will not pay for theft by your employees.
 - c. Missing property where the only proof of "loss" is unexplained or mysterious disappearance of the property, or shortage discovered upon taking inventory, or any other instance where there is no physical evidence to show what happened to the Covered Property. This exclusion does not apply to Covered Property in the custody of a carrier for hire.

- d. Voluntary parting with any property by you or anyone entrusted with the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- 2. We will not pay for a "loss" caused by or resulting from any of the following. But if "loss" by a Covered Cause of Loss results, we will pay for the resulting "loss".
 - a. Faulty, inadequate or defective:
 - (1) planning, zoning, development, surveying, siting;
 - (2) design, specifications, workmanship;
 - (3) repair, construction, renovation, remodeling, grading, compaction;
 - (4) materials used in repair, construction, renovation or remodeling; or
 - (5) maintenance;of all or any part of any type of property wherever located.
 - b. Insects, vermin or rodents.
 - c. Mechanical breakdown.
 - d. Wear and tear, any quality in the property that causes it to damage or destroy itself, gradual deterioration, rust or corrosion.
- 3. We will not pay for a "loss" caused directly or indirectly by any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".
 - a. Seizure or destruction of property by order of governmental authority. But we will pay for "loss" caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread.
 - b. Any weapon employing atomic fission.
 - c. Nuclear reaction or radiation, or radioactive contamination from any other cause. But we will pay for direct "loss" caused by resulting fire.
 - d. War including undeclared or civil war.
 - e. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents.
 - f. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

**CONTRACTORS EQUIPMENT COVERAGE
SPECIAL FORM**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Certain words and phrases that appear in quotation marks have special meaning. Refer to the Definitions section of the Inland Marine Changes Endorsement and other applicable forms.

A. COVERAGE

We will pay for "loss" to Covered Property from any of the Covered Causes of Loss.

1. COVERED PROPERTY

Covered Property, as used in this coverage form, means the following kinds of equipment described on the declarations or on a schedule attached to this coverage form, and for which an amount of insurance is shown:

- a. your contractors' equipment and
- b. contractors' equipment of others in your care, custody, or control.

2. PROPERTY NOT COVERED

- a. **Aircraft or Watercraft.** We do not cover aircraft or watercraft.
- b. **Automobiles and Trucks.** We do not cover automobiles, trucks, tractors, trailers, and similar conveyances designed for highway use and used for over-the-road transportation of people or cargo. However, this does not include vehicles designed for highway use that are unlicensed and not operated on public roads.
- c. **Contraband.** We do not cover contraband or property in the course of illegal transportation or trade.
- d. **Leased or Rented Property.** We do not cover property that you lease or rent to others.
- e. **Underground Mining Operations.** We do not cover property while stored or operated underground in connection with any mining operations.
- f. **Waterborne Property.** We do not cover property while waterborne except while in the course of transit in the custody of a carrier for hire.

3. COVERED CAUSES OF LOSS

- a. Covered Causes of Loss means Risks of Direct Physical "Loss" to Covered Property, except those causes listed under **EXCLUDED CAUSES OF LOSS**.
- b. For booms more than 25 feet in length that are attached to Covered Property, we cover direct physical "loss" only from the following causes:
 - (1) fire; lightning; windstorm; hail; earthquake; flood; smoke; explosion; aircraft, spacecraft, self-propelled missiles and object that fall from these items; vehicles including an accident to a transporting vehicle; strike; riot; civil commotion; vandalism; theft or attempted theft; sprinkler leakage; or
 - (2) when the boom is a part of Covered Property: upset or overturn of Covered Property caused by collapse of a building, or collision of Covered Property with another object.

4. ADDITIONAL COVERAGES

- a. **Collapse.** We will pay for direct "loss" caused by or resulting from risks of direct physical "loss" involving collapse of all or part of a building or structure caused by one or more of the following:
 - (1) fire; lightning; windstorm; hail; explosion; smoke; aircraft; vehicles; riot; civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; breakage of building glass; falling objects; weight of snow, ice or sleet; water damage; all only as insured against in this coverage form.
 - (2) hidden decay;
 - (3) hidden insect or vermin damage;
 - (4) weight of people or personal property; or
 - (5) defective materials or methods used in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

This additional coverage does not increase any Limit of Insurance provided in the coverage form.

- b. **Debris Removal.** We will pay the cost to remove the debris of Covered Property that is caused by a Covered Cause of Loss. This does not include costs to:

- (1) extract "pollutants" from land or water; or
- (2) remove, restore, or replace polluted land or water.

We will not pay more under this coverage than 25 percent of the amount we pay for direct "loss" to the Covered Property. We will not pay more for direct "loss" to property and debris removal combined than the limit for the damaged Covered Property. However, we will pay an additional amount of debris removal expense, up to \$5,000, when the debris removal expense exceeds 25 percent of the amount we pay for direct physical loss, or when the direct "loss" to property and debris removal exceeds the limit for the damaged property.

We do not pay any expenses unless they are reported to us in writing within 180 days from the date of direct "loss" to Covered Property.

- c. **Newly Acquired Equipment.** In the event that you acquire additional equipment during the policy period, we extend coverage to this additional equipment for up to 60 days. The most we pay in any one occurrence for "loss" to all newly acquired equipment under this additional coverage is the lesser of (1) the actual cash value of the covered property, or (2) \$50,000.

This additional coverage ends when any of the following first occurs:

- (1) this policy expires;
- (2) 60 days expire after you purchase the equipment; or
- (3) you report the equipment to us.

- d. **Rental Reimbursement.** In the event of direct "loss" by a Covered Cause of Loss to Covered Property you own, we will reimburse you for your expense to rent similar equipment while your equipment is inoperable. The most we will reimburse you is \$2,500 plus any additional limit for Rental Reimbursement shown on the declarations.

We will continue to reimburse you for the rental after the expiration date of this policy, provided the "loss" occurred before that expiration date.

We will not reimburse you:

- (1) for the rental of equipment until after 72 hours have passed since the covered property was rendered inoperable. After 72 hours have passed we will only reimburse you for the rental expense that you actually incur;
- (2) if you can continue or resume your operations with similar equipment that is available to you at no additional expense to you; or
- (3) for the rental expense of any equipment unless you make every reasonable effort to repair, replace, or rebuild the inoperable equipment after the "loss" occurs.

The deductible amount shown on the declarations does not apply to "loss" covered by this additional coverage.

- e. **Pollutant Clean Up and Removal.** We will pay your expenses to extract "pollutants" from land or water if the release, discharge, dispersal of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expense will be paid only if they are reported to us in writing within 180 days of the earlier of:

- (1) the date of direct physical "loss"; or
- (2) the end of the policy period.

The most we will pay under this additional coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss during each separate 12 month period of this policy.

B. EXCLUDED CAUSE OF LOSS

1. All Excluded Causes of Loss described in the Inland Marine Changes Endorsement.
2. We will not pay for a "loss" caused by or resulting from any of the following. But if a "loss" by a Covered Cause of Loss results, we will pay for that resulting "loss":
 - a. humidity, dampness, dryness, or changes in or extremes of temperature;
 - b. pitting;
 - c. a process to repair, adjust, service or maintain the Covered Property. If a fire or explosion results, we will pay for the "loss" caused by the fire or explosion.

3. We will not pay for a "loss" caused directly or indirectly by the weight of a load when it exceeds the designed capacity of a machine to lift or support the load from any position. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

C. LIMITS

The most we will pay for "loss" in any one occurrence is:

1. the limit shown on the attached schedule for each respective item; and
2. the limit shown on the declarations for all Covered Property together.

D. DEDUCTIBLE

We pay only that part of your "loss" over the deductible amount shown on the declarations, or applicable schedule, in any one occurrence.

E. ADDITIONAL CONDITIONS

1. **Coinurance.** You must insure all Covered Property for 100% of its actual cash value as of the time of loss or you will incur a penalty. The penalty is that we will pay only the proportion of any "loss" that the applicable Limit of Insurance bears to the actual cash value for items involved in the "loss".
2. **Coverage Territory.** We cover property while it is in the United States of America, its territories and possessions, Canada and Puerto Rico.

All policy "terms" and conditions in the Inland Marine Changes Endorsement and the Commercial Inland Marine Conditions form apply to this coverage form.

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COMMERCIAL INLAND MARINE CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and applicable Additional Conditions in Commercial Inland Marine Coverage Forms:

LOSS CONDITIONS

A. ABANDONMENT

There can be no abandonment of any property to us.

B. APPRAISAL

If we and you disagree on the value of the property or the amount of "loss", either may make written demand for an appraisal of the "loss". In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

1. Pay its chosen appraiser; and
2. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

C. DUTIES IN THE EVENT OF LOSS

You must see that the following are done in the event of "loss" to Covered Property:

1. Notify the police if a law may have been broken.
2. Give us prompt notice of the "loss". Include a description of the property involved.
3. As soon as possible, give us a description of how, when and where the "loss" occurred.
4. Take all reasonable steps to protect the Covered Property from further damage and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent "loss" resulting from a cause of loss that is not a Covered Cause of Loss. Also if feasible, set the damaged property aside and in the best possible order for examination.

5. Make no statement that will assume any obligation or admit any liability, for any "loss" for which we may be liable, without our consent.

6. Permit us to inspect the property and records proving "loss".

7. If requested, permit us to question you under oath, at such times as may be reasonably required, about any matter relating to this insurance or your claim, including your books and records. In such event, your answers must be signed.

8. Send us a signed, sworn statement of "loss" containing the information we request to settle the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.

9. Promptly send us any legal papers or notices received concerning the "loss".

10. Cooperate with us in the investigation or settlement of the claim.

D. INSURANCE UNDER TWO OR MORE COVERAGES

If two or more of this policy's coverages apply to the same "loss", we will not pay more than the actual amount of the "loss".

E. LOSS PAYMENT

We will pay or make good any "loss" covered under this Coverage Part within 30 days after:

1. We reach agreement with you;
2. The entry of final judgment; or
3. The filing of an appraisal award.

We will not be liable for any part of a "loss" that has been paid or made good by others.

F. OTHER INSURANCE

If you have other insurance covering the same "loss" as the insurance under this Coverage Part, we will pay only the excess over what you should have received from the other insurance. We will pay the excess whether you can collect on the other insurance or not.

G. PAIR, SETS OR PARTS

1. Pair or Set. In case of "loss" to any part of a pair or set we may:
 - a. Repair or replace any part to restore the pair or set to its value before the "loss"; or
 - b. Pay the difference between the value of the pair or set before and after the "loss".
2. Parts. In case of "loss" to any part of Covered Property consisting of several parts when complete, we will only pay for the value of the lost or damaged part.

H. PRIVILEGE TO ADJUST WITH OWNER

In the event of "loss" involving property of others in your care, custody or control, we have the right to:

1. Settle the "loss" with the owners of the property. A receipt for payment from the owners of that property will satisfy any claim of yours.
2. Provide a defense for legal proceedings brought against you. If provided, the expense of this defense will be at our cost and will not reduce the applicable Limit of Insurance under this insurance.

I. RECOVERIES

Any recovery or salvage on a "loss" will accrue entirely to our benefit until the sum paid by us has been made up.

J. REINSTATEMENT OF LIMIT AFTER LOSS

The Limit of Insurance will not be reduced by the payment of any claim, except for total "loss" of a scheduled item, in which event we will refund the unearned premium on that item.

K. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If any person or organization to or for whom we make payment under this insurance has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after "loss" to impair them.

GENERAL CONDITIONS**A. CONCEALMENT, MISREPRESENTATION OR FRAUD**

This Coverage Part is void in any case of fraud, intentional concealment or misrepresentation of a material fact, by you or any other insured, at any time, concerning:

1. This Coverage Part;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this Coverage Part.

B. LEGAL ACTION AGAINST US

No one may bring a legal action against us under this Coverage Part unless:

1. There has been full compliance with all the terms of this Coverage Part; and
2. The action is brought within 2 years after you first have knowledge of the "loss".

C. NO BENEFIT TO BAILEE

No person or organization, other than you, having custody of Covered Property, will benefit from this insurance.

D. POLICY PERIOD

We cover "loss" commencing during the policy period shown in the Declarations.

E. VALUATION

The value of property will be the least of the following amounts:

1. The actual cash value of that property;
2. The cost of reasonably restoring that property to its condition immediately before "loss"; or
3. The cost of replacing that property with substantially identical property.

In the event of "loss", the value of property will be determined as of the time of "loss".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ILLINOIS CHANGES - INTENTIONAL ACTS

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE PART

The following exclusion is added:

A. We will not pay for loss or damage arising out of any act committed:

1. By or at the direction of any insured; and
2. With the intent to cause a loss.

B. However, this exclusion will not apply to deny payment to an innocent co-insured who did not cooperate in or contribute to the creation of the loss if:

1. The loss arose out of a pattern of criminal domestic violence; and
2. The perpetrator of the loss is criminally prosecuted for the act causing the loss.

C. If we pay a claim pursuant to Paragraph B., our payment to the insured is limited to that insured's insurable interest in the property less any payments we first made to a mortgagee or other party with a legal secured interest in the property. In no event will we pay more than the Limit of Insurance.

EFFECTIVE DATE: 05/16/2006

CONTRACTORS EQUIPMENT SCHEDULE ENDORSEMENT

This endorsement modifies insurance provided under the following:

Contractors Equipment Coverage Form

ITEM NO.	YEAR	MAKE	MODEL	DESCRIBED ITEM	SERIAL NUMBER	COVERAGE AMOUNT
1	1996	Linkbelt	2700	Excavator	ES166433	\$50,000
2	1998	Caterpillar	963C	Trac Loader	22N01188	\$90,000
3	2000	Linkbelt	2700Q	Excavator	E5192544 H	\$70,000
4	2003	New Holland	LA190	Skidloader		\$38,000
5	1993	Caterpillar	1T28	Wheel Loader	IHV02517	\$32,000
6	1992	Caterpillar	RR250	Reclaimer	GED00095	\$92,000

TOTAL: \$ 372,000

POLICY NUMBER: A12B 1547070

TB 20A
(03-00)

EFFECTIVE DATE: 05/16/2006

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6	1992	Caterpillar	RR250	Reclaimer	GED00095	\$92,000
TOTAL:						\$ 372,000

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INLAND MARINE LOSS PAYABLE PROVISIONS ENDORSEMENT

This endorsement modifies insurance provided under the Commercial Inland Marine Coverage Forms.

The following is added to Loss Condition E., LOSS PAYMENT, of CM0001:

LOSS PAYABLE - For covered property in which both **you** and a Loss Payee shown in the SCHEDULE OF LOCATIONS/THIRD PARTY INTERESTS have an insurable interest, **we** will:

- a. adjust losses with **you**; and
- b. pay any claim for loss or damage jointly to **you** and the Loss Payee, as interests may appear.

ILLINOIS CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
 COMMERCIAL GENERAL LIABILITY COVERAGE FORM (CLAIMS-MADE)
 COMMERCIAL PROPERTY COVERAGE FORM
 COMMERCIAL INLAND MARINE COVERAGE FORM
 BOILER AND MACHINERY COVERAGE FORM
 COMMERCIAL CRIME COVERAGE FORM
 PRODUCTS/COMPLETED OPERATIONS COVERAGE FORM

A. The following supersedes any provision to the contrary:

CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing to us advance written notice of cancellation.
2.
 - a. We may cancel this policy by mailing written notice stating the reason for cancellation.
 - b. If we cancel for nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
 - c. If we cancel for a reason other than nonpayment of premium, we will mail the notice at least:
 - (1) 30 days prior to the effective date of cancellation if the policy has been in effect for less than 60 days, except as provided in paragraphs 7. and 8. below.
 - (2) 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days, except as provided in paragraphs 7. and 8. below.
3. If this policy has been in effect for more than 60 days except as provided in paragraphs 7. and 8. below, we may cancel only for one or more of the following reasons:
 - a. Nonpayment of premium;
 - b. The policy was obtained through a material misrepresentation;
 - c. Any insured has violated any of the terms and conditions of the policy;
 - d. The risk originally accepted has measurably increased;
 - e. Certification to the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
 - f. A determination by the Director of Insurance that the continuation of the policy could place us in violation of the insurance laws of this state.
4. Notice of cancellation will state the effective date of cancellation. The policy will end on that date.
5. If this policy is canceled, we will send the first named Insured any premium refund due. The refund will be pro rata. The cancellation will be effective even if we have not offered a refund.
6. Our notice of cancellation will state the reason for cancellation.
7. **REAL PROPERTY OTHER THAN RESIDENTIAL PROPERTIES OCCUPIED BY FOUR FAMILIES OR LESS:**
 The following applies only if this policy provides Commercial Property Coverage to real property other than residential property occupied by four families or less:
 If any one or more of the following conditions exists at any building that is Covered Property in this policy, we may cancel this policy by mailing to you written notice of cancellation at least 10 days before the effective date of cancellation.
 - a. After a fire loss, permanent repairs to the building have not started within 60 days of satisfactory adjustment of loss, unless the delay is due to a labor dispute or weather conditions.
 - b. The building has been unoccupied 60 or more consecutive days. This does not apply to:
 - (1) Season unoccupancy; or
 - (2) Buildings under repair, construction or reconstruction, if properly secured against unauthorized entry.

- c. The building has:
 - (1) An outstanding order to vacate;
 - (2) An outstanding demolition order; or
 - (3) Been declared unsafe in accordance with the law.
- d. Heat, water, sewer service or public lighting have not been connected to the building for 30 consecutive days or more.

8. RESIDENTIAL PROPERTIES OCCUPIED BY FOUR FAMILIES OR LESS:

The following applies if this policy provides Commercial Property Coverage to residential properties occupied by four families or less:

If this policy has been in effect for 60 days, or if this is a renewal policy, we may only cancel this policy for one or more of the following reasons:

- a. Nonpayment of premium;
- b. The policy was obtained by misrepresentation or fraud; or
- c. Any act that measurably increases the risk originally accepted.

The provisions of paragraphs 7. and 8. above do not apply to coverage under the Glass Coverage Form.

9. FOR INSURANCE PROVIDED UNDER THE COMMERCIAL PROPERTY COVERAGE FORM, THE FOLLOWING APPLIES:

(Not applicable to grain owned by the Commodity Credit Corporation)

The following applies only with respect to grain in public grain warehouses:

The first Named Insured or we may cancel this policy at any time by mailing to:

- a. The other; and
 - b. The Director of the Illinois Department of Agriculture (at the Department's Springfield Office);
- 60 days' written notice of cancellation.

B. The following is added and supersedes any provision to the contrary:

NONRENEWAL

- 1. If we decide not to renew this policy, we will mail written notice stating the reason for nonrenewal no less than 60 days before the expiration date.
- 2. Even if we do not comply with the terms of paragraph 1., this policy will terminate:
 - a. On the expiration date if:
 - (1) You fail to perform any of your obligations in connection with the payment of the premium for the policy, or any installment payment, whether payable directly to us or our agents or indirectly under any premium finance plan or extension of credit; or
 - (2) You have notified us or our agent that you do not want to renew this policy.
 - b. On the effective date of any other insurance replacing this policy.
- 3. The following provision applies only if this policy provides Commercial Property Coverage to residential properties occupied by four families or less:

If this policy has been issued to you and in effect with us for five or more years, we may not fail to renew this policy unless:

 - a. The policy was obtained by misrepresentation or fraud;
 - b. The risk originally accepted has measurably increased; or
 - c. You received 60 days' notice of our intent not to renew as provided in 1. above.

The provisions of paragraph B.3. above do not apply to coverage under the Glass Coverage Form.

C. Mailing of Notices

We will mail cancellation and nonrenewal notices to you, any mortgagee or lienholder known to us and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

D. The following is added to the LEGAL ACTION AGAINST US Condition:

- a. With respect to the COMMERCIAL PROPERTY COVERAGE FORM:

The two year period for legal action against us is extended by the number of days between the date the proof of loss is filed with us and the date we deny the claim in whole or in part.

This provision does not apply to coverage under the Commercial General Liability Coverage Form.

- b. With respect to the COMMERCIAL CRIME COVERAGE FORMS - EXCEPT COVERAGE FORM A.:

When forming a part of this policy, Crime General Provisions Form General Condition **B.6. Legal Action Against Us** and Safe Depository Direct Loss Coverage Form Additional Condition **D.2.c. Legal Action Against Us** are replaced by the following:

Legal Action Against Us: You may not bring any legal action against us involving loss:

- i. Unless you have complied with all the terms of this insurance; and
- ii. Until 90 days after you have filed proof of loss with us; and
- iii. Unless brought within two years from the date you discover the loss. But we will extend this two year period by the number of days between the date proof of loss is filed and the date the claim is denied in whole or in part.

- E. The following APPRAISAL Loss Condition is added to the BOILER & MACHINERY COVERAGE FORM.

Appraisal

If we and you disagree on the value of the property or the amount of loss, either may demand an appraisal of the loss. In this event, each party will select a competent and impartial appraiser after receiving a written request from the other. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

- F. If this policy provides Commercial Property Coverage to residential properties occupied by four families or less, the second paragraph of the APPRAISAL Condition is deleted and replaced by the following:

- a. Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally, except as provided in b. below.
- b. We will pay your appraiser's fee and the umpire's appraisal fee, if the following conditions exist:
 - (1) You demanded the appraisal; and
 - (2) The full amount of loss, as set by your appraiser, is agreed to by our appraiser or by the umpire.

- G. If this policy provides Commercial Property Coverage to real property used principally for residential purposes up to and including a four family dwelling, or to household or personal property that is usual or incidental to the occupancy of any premises used for residential purposes, the following conditions apply:

1. The second paragraph of the **Appraisal** Condition is deleted and replaced by the following:
 - a. Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally, except as provided in b. below.
 - b. We will pay your appraiser's fee and the umpire's appraisal fee, if the following conditions exist:
 - (1) You demanded the appraisal; and
 - (2) The full amount of loss, as set by your appraiser, is agreed to by our appraiser or by the umpire.

2. The **Concealment, Misrepresentation Or Fraud** Condition is replaced by the following:

CONCEALMENT, MISREPRESENTATION OR FRAUD

- a. This Coverage Part or Coverage Form is void if you or any insured ("insured") commit fraud or conceal or misrepresent a fact in the process leading to the issuance of this insurance, and such fraud, concealment or misrepresentation is stated in the policy or endorsement or in the written application for this policy and:

(1) Was made with actual intent to deceive, or

(2) Materially affected either our decision to provide this insurance or the hazard we assumed.

However, this condition will not serve as a reason to void this Coverage Part or Coverage Form after the Coverage Part or Coverage Form has been in effect for one year or one policy term, whichever is less.

- b. This Coverage Part or Coverage Form is void if you or any other insured ("insured"), at any time subsequent to the issuance of this insurance, commit fraud or intentionally conceal or misrepresent a material fact relating to:

- (1) This Coverage Part or Coverage Form;
- (2) The Covered Property;
- (3) Your interest in the Covered Property; or
- (4) A claim under this Coverage Part or Coverage Form.

- c. Notwithstanding the limitation stated in 3.a. above, we may cancel the Coverage Part or Coverage Form in accordance with the terms of the Cancellation Condition.

H. The following exclusion is added under the applicable Commercial Property Cause of Loss form:

1. We will not pay for loss or damage arising out of any act committed:
 - a. By or at the direction of any insured; and
 - b. With the intent to cause a loss.
2. However, this exclusion will not apply to deny payment to an innocent co-insured who did not cooperate in or contribute to the creation of the loss if:
 - a. The loss arose out of a pattern of criminal domestic violence; and
 - b. The perpetrator of the loss is criminally prosecuted for the act causing the loss.
3. If we pay a claim pursuant to paragraph 2 above, our payment to the insured is limited to that insured's insurable interest in the property less any payments we first made to a mortgagee or other party with a legal secured interest in the property. In no event will we pay more than the Limit of Insurance.

I. Condition 2. **DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT** (SECTION IV) in the COMMERCIAL GENERAL LIABILITY COVERAGE FORM (OCCURRENCE VERSION) is replaced by the following:

2. Duties in The Event of Occurrence, Offense, Claim or Suit.

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and,
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and,
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit"; and,
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

- J. Condition 10, YOUR RIGHT TO CLAIM AND OCCURRENCE INFORMATION (SECTION IV), in the COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE VERSION), is replaced by:

10. Your Right To Claim and Occurrence Information

- a. Subject to paragraph e. below, we will provide the first Named Insured shown in the Declarations, within thirty (30) days of the insured's written request or at the same time as any notice of cancellation or nonrenewal, the following claim and "occurrence" information relating to claims-made Coverage Parts we have issued to you within the last three years:
 - (1) Information concerning closed claims limited to the date and description of "occurrence" and total amount of payments, if any;
 - (2) Information concerning open claims limited to the date and description of "occurrence", total amount of payments and total reserves, if any; and
 - (3) Information concerning "occurrence" not included in subparagraphs (1) and (2) above limited to the date and description of "occurrence" and total reserves, if any.
- b. Subject to paragraph e. below, we will provide the first Named Insured shown in the Declarations, within twenty (20) days after receipt of written request by the Named Insured, detailed claim and "occurrence" information in addition to that provided under paragraph a. above and including specific reserve amounts.
- c. Amounts reserved are based on our judgment. They are subject to change and should not be regarded as ultimate settlement values.
- d. We compile claim and "occurrence" information for our own business purposes and exercise reasonable care in doing so. In providing this information to the first Named Insured we make no representations or warranties to insureds, insurers or others to whom this information is furnished by or on behalf of any insured. Cancellation or nonrenewal will be effective even if we inadvertently provide inaccurate information.
- e. We will not provide the information included in paragraphs a. and b. above, if this policy has been cancelled for nonpayment of premium, material misrepresentations or fraud on the part of the insured.

- K. The following exclusion is added under COVERAGES A and B (Section I) in the COMMERCIAL GENERAL LIABILITY COVERAGE FORM.

This insurance does not apply to sums awarded for punitive or exemplary damages. These include damages which may be imposed to punish a wrongdoer or deter others from similar conduct. Except that if a "suit" shall have been brought against any insured with respect to a claim for acts or alleged acts falling within the coverage hereof, seeking both compensatory and punitive or exemplary damages, then we will afford a defense to such action without liability, however, for such punitive or exemplary damages.

- L. The following is added and applies to all liability coverages under this policy:

If this policy and any other policy issued to you by us or any company affiliated with us apply to the same occurrence, the aggregate maximum limit of liability under all policies will not exceed the highest applicable limit of liability under any one policy. This condition does not apply to any policy issued by us or any affiliated company specifically for the purpose of applying as excess insurance over this policy.

Nothing contained here varies, alters, or extends any provision of the policy except as provided in this endorsement.

POLLUTION AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORMS

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

A. Liability Pollution Exclusion Revision(s)

The following revisions apply to the Commercial General Liability Coverage forms:

1. Under **SECTION 1 - COVERAGE, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, item 2. **Exclusions**, item f. **Pollution**: paragraphs 1(d) and 1(e) are replaced by:

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing, or have completed, operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this paragraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor.

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing, or have completed, operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

2. Under **SECTION V - DEFINITIONS**, item 15. "Pollutants" is replaced by:

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed. For the purposes of this exclusion, lead of any kind, in whatever form and however used, is considered a pollutant. This description of lead as a pollutant is by way of clarifying example only and is not to be construed in any way limiting the scope of breadth of this exclusion.

B. Property Pollution Exclusion Revision(s)

The following is added under **B. EXCLUSIONS AND LIMITATIONS** in the Building and Personal Property Coverage Form:

This policy does not cover expenses incurred or loss of use resulting from governmental direction or request to remove or otherwise modify materials present at the insured premises which contain substances deemed hazardous to society. Further, coverage does not apply to fines or penalties assessed due to the existence of, or failure to remove such substances.

This policy does not cover damage, loss of use, or expense caused directly or indirectly by radon gas, radium or any other radioactive substances.

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CONTRACTORS PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

A. Subsection 4. Additional Coverages, Fire Department Service Charge, in A. COVERAGE is modified as follows:

c. Fire Department Service Charge

The introductory phrase is replaced by the following:

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$5,000 for your liability for fire department service charges:

B. The following provisions in Subsection 5. Coverage Extension in A. COVERAGE are modified as follows:

a. Newly Acquired or Constructed Property

The last paragraph of a.(1) is replaced by the following:

The most we will pay for loss or damage under this Extension for Building is \$500,000 at each building.

The last paragraph of a.(2) is replaced by the following:

The most we will pay for loss or damage under this Extension for Your Business Personal Property is \$250,000 at each building.

(3)(b) is replaced by the following:

(b) 60 days expire after you acquire or begin to construct the property; or

b. Personal Effects and Property of Others

Item 5.b. is replaced by the following:

b. Personal Effects and Property of Others

You may extend the insurance that applies to Your Business Personal Property to apply to:

(1) Personal effects owned by you, your officers, your partners, your limited liability company members or managers, or your employees.

(2) Personal property owned by others in your care, custody, or control, and while at the premises described in the Declarations, in transit, or at the owner's premises.

The most we will pay for loss or damage under this Extension is \$2,500 at each premises or vehicle. Our payment for loss or damage to personal property of others will only be for the account of the owner of the property.

c. Valuable Papers and Records - Cost of Research

The last sentence is replaced by the following:

The most we will pay under this extension is \$5,000 at each described premises.

e. Outdoor Property

The last paragraph is replaced by the following:

The most we will pay for loss or damage under this Extension is \$1,500, but not more than \$250 for any one tree, shrub, or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

C. The following coverages are added to 5. Coverage Extensions under A. COVERAGES.

f. Extra Expense and Loss of Income

You may extend the insurance provided by this Coverage Form to pay for your loss of income and the reasonable expenses you incur up to \$25,000 to resume normal operations at your Covered Property. This insurance applies when either your Building or Your Business Personal Property is damaged as a direct result of a Covered Cause of Loss and you cannot continue your operations or you are unable to occupy the location described in the Declarations. We will pay no more than the reduction in your Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred. In order to receive payment, the losses affecting your earnings must have occurred during the policy period.

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This Coverage Extension applies to the period of time reasonably required to resume normal operations. That period must not exceed the time required to rebuild, repair, or replace the property damaged or destroyed by a Covered Cause of Loss. The length of time may not exceed 12 consecutive months from the date of loss. This 12 month period may extend beyond the normal expiration date of this policy. You are required to resume normal operations as promptly as possible and you must use all reasonable means to eliminate any unnecessary delay. Normal operations means the condition that would have existed had no loss occurred.

If you do not make a reasonable effort to reduce your loss, our payment to you will be reduced accordingly.

We will not pay for any increase in loss caused by:

- (1) Strikers or other persons who interfere with rebuilding, repairing, or replacing the property or with the resumption or continuation of operations;
- (2) The suspension, lapse, or cancellation of any lease, license, contract, or order unless directly resulting from the interruption of operations.

Section **D. DEDUCTIBLE** does not apply to this Extension.

g. Money & Securities

You may extend the insurance provided by this Coverage Form to apply to loss or damage to money and securities. The most we will pay for loss or damage under this Extension is \$250.

Section **D. DEDUCTIBLE** does not apply to this Extension.

h. Increased Cost of Construction

If a Covered Cause of Loss occurs to covered Building property, we will pay for the increased cost to repair, rebuild or construct the property caused by enforcement of building, zoning or land use ordinance or law. If the property is repaired or rebuilt, it must be intended for similar occupancy as the current property, unless otherwise required by zoning or land use ordinance or law. However, we will not pay for the increased cost of construction if the building is not repaired or replaced. This coverage does not apply to any building or structure on which an insured is providing, or under contract to provide, construction services. The Coinsurance Additional Condition does not apply to this Extension.

The most we will pay under this Extension for any one occurrence is \$5,000, subject to the conditions below.

If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay is the lesser of (i) the increased cost of construction at the same premises, or (ii) \$5,000.

If the ordinance or law required relocation to another premises, the most we will pay is the lesser of (i) the increased cost of construction at the new premises; or (ii) \$5,000.

We will not pay (i) until the property is actually repaired or replaced, at the same or another premises; and (ii) unless repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

We will not pay under this Extension for the costs associated with the enforcement of any ordinance or law which required any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the affects of "pollutants".

i. Signs

The last paragraph of item **5.e., Outdoor Property**, is replaced by the following:

The most we will pay for loss or damage to signs under this Extension is \$5,000. The most we will pay for all other loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant.

The 2nd paragraph under **C. LIMITS OF INSURANCE** is replaced by the following:

The most we will pay for loss of damage to outdoor signs attached to buildings is \$5,000 per sign in any one occurrence.

- D.** The following coverages are added to subsection **5. Coverage Extensions** under **A. COVERAGES**, subject to the following Limit of Insurance.

LIMIT OF INSURANCE (subsection 5(j-o))

The Limit of Insurance for the following Extensions shall be the total of all Your Business Personal Property amounts of coverages for all locations or \$5,000, whichever is less. This limit will apply as a single limit for all losses covered by subsection 5(j-o) resulting from each occurrence. Section **C. LIMITS OF INSURANCE** does not apply to these Extensions.

j. Fire Protection Equipment Recharge

We will pay up to the Limit of Insurance described in this endorsement for the recharge of your fire protection equipment when discharged to extinguish a covered fire.

Section **D. DEDUCTIBLE** does not apply to this Extension.

k. Accounts Receivable

We will pay up to the Limit of Insurance described in this endorsement for amounts due from your customers that you are unable to collect resulting from a Covered Cause of Loss to your records of accounts receivable. Loss resulting from the following is also covered:

- (1) Interest charges on any loan you secure to offset impaired collections pending repayment of such uncollected sums; and
- (2) Collection expenses in excess of normal collection costs made necessary because of the loss.

l. Glass Coverage

When coverage is not otherwise provided under Sections **A.** and **B.** of the Building and Personal Property Coverage Form, we will pay up to the Limit of Insurance described in this endorsement for loss or damage to glass, as defined directly below for this coverage. The loss or damage must result from a Covered Cause of Loss as defined directly below, subject to the Exclusions and Deductible provisions that directly follow and which replace all the provisions of the Causes of Loss - Special Form for the coverages in this extension. Paragraph **(f)** in Subsection **7. Valuation** in **E. LOSS CONDITIONS** does not apply to this coverage.

(1) Covered Cause of Loss

- (a) Direct physical loss to glass.
- (b) The expense of boarding up damaged openings, installing temporary plate glass, and removing or replacing obstructions when necessary.
- (c) Increased cost created by statute, ordinance, or building code which requires use of safety glazing material in replacement of damaged property. We will pay no more than the minimum cost to replace the damaged property with a safety glazing material which meets the statute, ordinance, or building code.
- (d) Losses in excess of the applicable glass limits shown in Section **C. LIMITATIONS** of the **CAUSES OF LOSS - SPECIAL FORM**.

(2) Exclusions

We will not pay for:

- (a) Glass in buildings under construction
- (b) Loss or damage to glass caused by:
 - (i) War and military action
 - (ii) Seizure or destruction of property by order of governmental authority.
 - (iii) Nuclear reaction or radiation or radioactive contamination, however caused.
 - (iv) Dishonest or criminal acts by you, any of your partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
 - (a) Acting alone or in collusion with others; or
 - (b) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

3. Deductible

Regardless of the amount of deductible shown on the Declarations, the most we will deduct from any loss or damage for this coverage for any one occurrence is \$250.

4. Definitions

Glass means:

- (a) That glass which is part of the outside surface of a covered building at the entrance level, basement level, and in entryways, whether owned by you or in your care, custody or control, and
- (b) The encasing, frames, lettering, and ornamentation on or attached to that glass.

m. Computer Coverage

When coverage is not otherwise provided under sections **A.** of **B.** of the Building and Personal Property Coverage Form, we will pay up to the Limit of Insurance described in this endorsement for direct physical damage to your "computer hardware", "computer software", telephone systems, copy machines, facsimile (fax) machines, and electronic cash registers. The damage must result from a Covered Cause of Loss and is subject to the Exclusion, both defined directly below. We cover this property anywhere in the coverage territory, including while in transit.

(1) Covered Causes of Loss

- (a) a change in electrical power supply (such as power surge or brown-out), either on or off the described premises, due to conditions beyond your control. But we will not pay for direct physical damage to an electrical device or appliance caused by an electrical disturbance (such as arcing) within the device or appliance, unless Equipment Breakdown Coverage is endorsed onto this policy;
- (b) water, including flood. But we will not pay for "loss" caused by or resulting from:
 - (i) dampness of atmosphere; or
 - (ii) water under the ground surface pressing on, or flowing or seeping through foundations, walls, floors or basements (whether paved or not), doors, windows or other openings;
- (c) earthquake and volcanic eruption (meaning the eruption, explosion or effusion of a volcano. All earthquake shocks or volcanic eruptions that occur within any 168-hour period will constitute a single earthquake or volcanic eruption. The expiration of this policy will not reduce the 168-hour period.

(2) Exclusion

We will not pay for loss or damage caused by dishonest or criminal acts by you, any of your partners, limited liability company members, employees, directors, trustees, authorized representatives, or anyone to whom you entrust the property for any purpose:

- (a) acting alone or in collusion with others; or
- (b) whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

(3) Definitions

- (a) "Computer hardware" means programmable electronic equipment used to store, retrieve and process data, and peripheral equipment that provides communication output functions such as printing, or auxiliary functions such as data transmission.
- (b) "Computer software" means electronic data or programming records used with "computer hardware" and stored on electronic or magnetic media such as discs (including CD's and CD-ROM's), tapes, drums, cells or films. These media are included as "computer software".

For coverage provided by this coverage extension (m), the provisions above supercede any policy provisions to the contrary.

Installation Floater Coverage

When coverage is not otherwise provided under Sections **A.** and **B.** of the Building and Personal Property Coverage Form, we will pay up to the Limit of Insurance described in this endorsement for loss or damage to building materials, supplies, equipment, machinery, and fixtures that are owned by you, or for which you have an insurable interest, that are to be installed in a building or other structure by you or at your direction, while the property is at a jobsite, in transit, or at a temporary storage location. The loss or damage must result from a Covered Cause of Loss as defined directly below. This coverage is not limited to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises. The provisions of the Causes of Loss - Special Form do not apply to the coverages in this extension.

(1) Covered Cause of Loss

- (a) earth movement
- (b) flood
- (c) theft
- (d) collapse
- (e) losses or damage caused by transit

(2) Exclusions

- (a) Loss or damage caused by dishonest or criminal act by you, any of your partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose.

- (i) Acting alone or in collusion with others; or

- (ii) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

- (b) Mysterious disappearance.

o. Arson Reward

We will pay up to the Limit of Insurance described in this endorsement, on behalf of an insured, for information which leads to an arson conviction in connection with a covered fire loss under this policy. Regardless of the number of persons involved in providing information, the Limit of Insurance will not be increased.

E. The following is added to 5. Coverage Extensions under A. COVERAGES after the first paragraph:

- 1. Except for the excess of the amount due (whether you can collect on it or not) from other insurance described in this paragraph, subsection 5(g-o), extensions to Covered Property, does not apply if loss or damage is covered under (1) any of the following forms of this policy: the Theft, Disappearance and Destruction Coverage Form, the Glass Coverage Form, the Computer and Office Machines Coverage Form; the Installation Coverage Form, the Accounts Receivable Coverage Form, Ordinance or Law Coverage Form, Outdoor Signs Form, or (2) another coverage form of this or any other policy in which the coverage is more specifically described.
- 2. If loss or damage is covered under Coverage Extension f. **Extra Expense and Business Income**, and any other endorsement, coverage part or policy issued to you by us, Coverage Extension f, does not apply.

F. Paragraph "a" in Subsection 2, Property Not Covered, in A. COVERAGE is modified to read as follows:

- a. Accounts, bills, currency, deeds, food stamps or other evidence of debt, money, notes or securities, except that Accounts Receivable, money and securities may be covered as provided in the Coverage Extensions. Lottery tickets held for sale are not securities;

G. Paragraph "i" in Subsection 2, Property Not Covered, in A. COVERAGE is modified to read as follows:

- i. Personal property while airborne or waterborne except as provided in the Coverage Extensions;

H. The third paragraph in C. LIMITS OF INSURANCE, is modified to read as follows:

The limits applicable to the Coverage Extensions, unless otherwise specified, and the Fire Department Service Charge and Pollutant Clean Up and Removal Additional Coverages are in addition to the Limits of Insurance.

I. Subsection 2, Inflation Guard in G. OPTIONAL COVERAGES is modified by adding the following:

- c. The Limit of Insurance provided for Subsection 5(j-o) Coverage Extensions under A. **COVERAGES** does not apply to this Coverage.

Nothing contained here varies, alters, or extends any provision of this policy except as provided in this endorsement.

POLICY NUMBER: A12B 1547070

IL 09 85 01 03

EFFECTIVE DATE: 05/16/2006

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT OF 2002. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT OF 2002

SCHEDULE *

Terrorism Premium (Certified Acts) \$ Included

Additional information, if any, concerning the terrorism premium:

If premium for Certified Acts of Terrorism is shown on your declarations as "included", then:

- a. the portion of your annual premium attributable to coverage for "certified acts of terrorism" is included in your policy premium, based on its ordinary coverage; and
- b. there currently is no separate rating or premium for "certified acts of terrorism".

* Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act of 2002, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under that Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the Policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 90% of that portion of the amount of such insured losses that exceeds the applicable insurer retention.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF ACTS OF BIOLOGICAL OR CHEMICAL TERRORISM; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART
COMMERCIAL CRIME COVERAGE FORM
COMMERCIAL CRIME POLICY
COMMERCIAL INLAND MARINE
EMPLOYEE THEFT AND FORGERY POLICY
GOVERNMENT CRIME COVERAGE FORM
GOVERNMENT CRIME POLICY
KIDNAP/RANSOM AND EXTORTION COVERAGE FORM
KIDNAP/RANSOM AND EXTORTION POLICY

A. The following definitions are added with respect to the provisions of this endorsement:

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in that Act for a "certified act of terrorism" include the following:
 - a. The act resulted in aggregate losses in excess of \$5 million; and
 - b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

2. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. However, "other act of terrorism" does not include an act which meets the criteria set forth in Paragraph b. of the definition of "certified act of terrorism", when such act resulted in aggregate losses of \$5 million or less.

B. The following exclusion is added:

Exclusion Of An "Other Act Of Terrorism"

We will not pay for loss or damage caused directly or indirectly by an "other act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or both of the following are attributed to such act:

1. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
2. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

C. Cap On Certified Terrorism Losses

With respect to any one or more "certified acts of terrorism" under the federal Terrorism Risk Insurance Act of 2002, we will not pay any amounts for which we are not responsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

D. Application Of Other Exclusions

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Part or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

COMMERCIAL PROPERTY CONDITIONS

This Coverage Part is subject to the following conditions, the Common Policy Conditions and applicable Loss Conditions and Additional Conditions in Commercial Property Coverage Forms.

A. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Part is void in any case of fraud by you as it relates to this Coverage Part at any time.

It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

1. This Coverage Part;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this Coverage Part.

B. CONTROL OF PROPERTY

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Part at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

C. INSURANCE UNDER TWO OR MORE COVERAGES

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

D. LEGAL ACTION AGAINST US

No one may bring a legal action against us under this Coverage Part unless:

1. There has been full compliance with all of the terms of this Coverage Part; and
2. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

E. LIBERALIZATION

If we adopt any revision that would broaden the coverage under this Coverage Part without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

F. NO BENEFIT TO BAILEE

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

G. OTHER INSURANCE

1. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.
2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

H. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Part:

1. We cover loss or damage commencing:
 - a. During the policy period shown in the Declarations; and
 - b. Within the coverage territory.
2. The coverage territory is:
 - a. The United States of America (including its territories and possessions);
 - b. Puerto Rico; and
 - c. Canada.

I. TRANSFER OF RIGHTS : RECOVERY AGAINST OTHERS TO US

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

1. Prior to a loss to your Covered Property or Covered Income.
2. After a loss to your Covered Property or Covered Income only if, at time of loss, that party is one of the following:
 - a. Someone insured by this insurance;
 - b. A business firm:
 - (1) Owned or controlled by you; or
 - (2) That owns or controls you; or
 - c. Your tenant.

This will not restrict your insurance.

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION H. - DEFINITIONS

A. COVERAGE

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in this section, **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

a. Building, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery and
 - (b) Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
 - (a) Fire extinguishing equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and
 - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
 - (a) Additions under construction, alterations and repairs to the building or structure;

- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property - Separation of Coverage form:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) "Stock";
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others;
- (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.

c. Personal Property of Others that is:

- (1) In your care, custody or control; and
- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

2. Property Not Covered

Covered Property does not include:

- a. Accounts, bills, currency, deeds, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
 - (1) The lowest basement floor; or
 - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;

- n. The cost to research, replace or restore the information on valuable papers and records, including those which exist on electronic or magnetic media, except as provided in the Coverage Extensions;

o. Vehicles or self-propelled machines (including aircraft or watercraft) that:

- (1) Are licensed for use on public roads; or
- (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (1) Vehicles or self-propelled machines or autos you manufacture, process or warehouse;
- (2) Vehicles or self-propelled machines, other than autos, you hold for sale; or
- (3) Rowboats or canoes out of water at the described premises;

p. The following property while outside of buildings:

- (1) Grain, hay, straw or other crops;
- (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

3. Covered Causes Of Loss

See applicable Causes of Loss Form as shown in the Declarations.

4. Additional Coverages**a. Debris Removal**

- (1) We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) The most we will pay under this Additional Coverage is 25% of:
 - (a) The amount we pay for the direct physical loss of or damage to Covered Property; plus

- (b) The deductible in this policy applicable to that loss or damage.

But this limitation does not apply to any additional debris removal limit provided in the Limits of Insurance section.

- (3) This Additional Coverage does not apply to costs to:

- (a) Extract "pollutants" from land or water; or
- (b) Remove, restore or replace polluted land or water.

b. Preservation of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000 for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

No Deductible applies to this Additional Coverage.

d. Pollutant Clean Up and Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Additional Coverage for each described premises is \$10,000 for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy.

5. Coverage Extensions

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

If a Coinsurance percentage of 80% or more or, a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

a. Newly Acquired or Constructed Property

- (1) You may extend the insurance that applies to Building to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

- (2) You may extend the insurance that applies to Your Business Personal Property to apply to that property at any location you acquire other than at fairs or exhibitions.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

- (3) Insurance under this Extension for each newly acquired or constructed property will end when any of the following first occurs:

- (a) This policy expires.
- (b) 30 days expire after you acquire or begin to construct the property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date construction begins or you acquire the property.

b. Personal Effects and Property of Others

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or your employees. This extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

c. Valuable Papers and Records - Cost of Research

You may extend the insurance that applies to Your Business Personal Property to apply to your costs to research, replace or restore the lost information on lost or damaged valuable papers and records, including those which exist on electronic or magnetic media, for which duplicates do not exist. The most we will pay under this Extension is \$2,500 at each described premises, unless a higher limit is shown in the Declarations.

d. Property Off-Premises

You may extend the insurance provided by this Coverage Form to apply to your Covered Property, other than "stock", that is temporarily at a location you do not own, lease or operate. This Extension does not apply to Covered Property:

- (1) In or on a vehicle;
- (2) In the care, custody or control of your salespersons; or

- (3) Any fair or exhibition.

The most we will pay for loss or damage under this Extension is \$10,000.

e. Outdoor Property

You may extend the insurance provided by this Coverage Form to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

Each of these Extensions is additional insurance. The Additional Condition, Coinsurance, does not apply to these Extensions.

B. EXCLUSIONS AND LIMITATIONS

See applicable Causes of Loss Form as shown in the Declarations.

C. LIMITS OF INSURANCE

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

The most we will pay for loss or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

The limits applicable to the Coverage Extensions and the Fire Department Service Charge and Pollutant Clean Up and Removal Additional Coverages are in addition to the Limits of Insurance.

Payments under the following Additional Coverages will not increase the applicable Limit of Insurance:

- 1. Preservation of Property; or

2. Debris Removal; but if:

- a. The sum of direct physical loss or damage and debris removal expense exceeds the Limit of Insurance; or
- b. The debris removal expense exceeds the amount payable under the 25% limitation in the Debris Removal Additional Coverage;

we will pay up to an additional \$10,000 for each location in any one occurrence under the Debris Removal Additional Coverage.

D. DEDUCTIBLE

We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible, up to the applicable Limit of Insurance, after any deduction required by the Coinsurance condition or the Agreed Value Optional Coverage.

When the occurrence involves loss to more than one item of Covered Property and more than one Limit of Insurance applies, the Deductible will reduce the total amount of loss payable if loss to at least one item is less than the sum of (1) the Limit of Insurance applicable to that item plus (2) the Deductible.

Example No. 1:

(This example assumes there is no coinsurance penalty.)

Deductible: \$250

Limit of Insurance - Bldg. 1: \$60,000

Limit of Insurance - Bldg. 2: \$80,000

Loss to Bldg. 1: \$60,100

Loss to Bldg. 2: \$90,000

The amount of loss to Bldg. 1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Bldg. 1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Bldg. 1:

\$60,100

- 250

\$59,850 Loss Payable - Bldg. 1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Bldg. 2. Loss payable for Bldg. 2 is the Limit of Insurance of \$80,000.

Total amount of loss payable: \$59,850 + 80,000 = \$139,850.

Example No.

(This example, too, assumes there is no coinsurance penalty.)

The Deductible and Limits of Insurance are the same as those in Example No. 1.

Loss to Bldg. 1: \$70,000 (exceeds Limit of Insurance plus Deductible)

Loss to Bldg. 2: \$90,000 (exceeds Limit of Insurance plus Deductible)

Loss Payable - Bldg. 1: \$60,000 (Limit of Insurance)

Loss Payable - Bldg. 2: \$80,000 (Limit of Insurance)

Total amount of loss payable: \$140,000

E. LOSS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

- a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the policy if a law may have been broken.

- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
 - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
 - (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
 - (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
 - (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.
Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
 - (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
 - (8) Cooperate with us in the investigation or settlement of the claim.
- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Loss Payment

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to b. below;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to b. below.
- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d. We will not pay you more than your financial interest in the Covered Property.
- e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:
 - (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.

5. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

6. Vacancy

a. Description of Terms

(1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in (1)(a) and (1)(b) below:

(a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.

(b) When this policy is issued to the owners of a building, building means the entire building. Such building is vacant when 70% or more of its square footage:

(i) Is not rented; or

(ii) Is not used to conduct customary operations.

(2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

(1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:

(a) Vandalism;

(b) Sprinkler leakage, unless you have protected the system against freezing;

(c) Building glass breakage;

(d) Water damage;

(e) Theft; or

(f) Attempted theft.

(2) With respect to Covered Causes of Loss other than those listed in b.(1)(a) through b.(1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

7. Valuation

We will determine the value of Covered Property in the event of loss or damage as follows:

a. At actual cash value as of the time of loss or damage, except as provided in b., c., d., e. and f. below.

b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property. However, the following property will be valued at the actual cash value even when attached to the building.

(1) Awnings or floor coverings;

(2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or

(3) Outdoor equipment or furniture.

c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.

d. Glass at the cost of replacement with safety glazing material if required by law.

e. Tenant's Improvements and Betterments at:

(1) Actual cash value of the lost or damaged property if you make repairs promptly.

(2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:

(a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and

(b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.

- (3) Nothing if others pay for repairs or replacement.
- f. Valuable Papers and Records, including those which exist on electronic or magnetic media (other than prepackaged software programs), at the cost of:
 - (1) Blank materials for reproducing the records; and
 - (2) Labor to transcribe or copy the records when there is a duplicate.

F. ADDITIONAL CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies.

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in step (2); and
- (4) Subtract the deductible from the figure determined in step (3).

We will pay the amount determined in step (4) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

Example No. 1 (Underinsurance):

When:

The value of the property is \$250,000

The Coinsurance percentage for it is 80%

The Limit of Insurance for it is \$100,000

The Deductible is \$250

The amount of loss is \$40,000

Step (1): $\$250,000 \times 80\% = \$200,000$ (the minimum amount of insurance to meet your Coinsurance requirements)

Step (2): $\$100,000 \div \$200,000 = .50$

Step (3): $\$40,000 \times .50 = \$20,000$

Step (4): $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

Example No. 2 (Adequate Insurance):

When:

The value of the property is \$250,000

The Coinsurance percentage for it is 80%

The Limit of Insurance for it is \$200,000

The Deductible is \$250

The amount of loss is \$40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ($\$250,000 \times 80\%$). Therefore, the Limit of Insurance in this Example is adequate and no penalty applies. We will pay no more than \$39,750 (\$40,000 amount of loss minus the deductible of \$250).

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

Example No. 3:

When:

The value of property is:

Bldg. at Location No. 1	\$75,000
Bldg. at Location No. 2	\$100,000
Personal Property at Location No. 2	<u>\$75,000</u>
	\$250,000

The Coinsurance percentage for it is 90%

The Limit of Insurance for Buildings and Personal Property at Location Nos. 1 and 2 is \$180,000

The Deductible is \$1,000

The amount of loss is:

Bldg. at Location No. 2	\$30,000
Personal Property at Location No. 2.	<u>\$20,000</u>
	\$50,000

Step (1): $\$250,000 \times 90\% = \$225,000$ (the minimum amount of insurance to meet your Coinsurance requirements and to avoid the penalty shown below)

Step (2): $\$180,000 + \$225,000 = .80$

Step (3): $\$50,000 \times .80 = \$40,000$

Step (4): $\$40,000 - \$1,000 = \$39,000$.

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

2. Mortgageholders

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interest may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

- (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Part will then apply directly to the mortgageholder.

e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.

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g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

Exhibit A:

If:

The applicable Limit
of Insurance is \$100,000

The annual percentage
increase is 8%

The number of days
since the beginning
of the policy year
(or last policy
change) is 146

The amount of increase is
 $\$100,000 \times .08 \times 146 \div 365 = \$3,200$

G. OPTIONAL COVERAGES

If shown in the Declarations, the following Optional Coverages apply separately to each item.

1. Agreed Value

- a. The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.
- c. The terms of this Optional Coverage apply only to loss or damage that occurs:
 - (1) On or after the effective date of this Optional Coverage; and
 - (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

2. Inflation Guard

- a. The Limit of Insurance for property to which this Optional Coverage applied will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
 - (1) The Limit of Insurance that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Limit of Insurance, times
 - (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times
 - (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance, divided by 365.

3. Replacement Cost

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Loss Condition, Valuation, of this Coverage Form.
- b. This Optional Coverage does not apply to:
 - (1) Personal property of others;
 - (2) Contents of a residence;
 - (3) Manuscripts;
 - (4) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or
 - (5) "Stock", unless the including "Stock" option is shown in the Declarations.
- c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.
- d. We will not pay on a replacement cost basis for any loss or damage:
 - (1) Until the lost or damaged property is actually repaired or replaced; and
 - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

- e. We will not pay more for loss or damage on a replacement cost basis than the least of (1), (2) or (3), subject to f. below:

- (1) The Limit of Insurance applicable to the lost or damaged property;
- (2) The cost to replace, on the same premises, the lost or damaged property with other property:
 - (a) Of comparable material and quality; and
 - (b) Used for the same purpose; or
- (3) The amount you actually spend that is necessary to repair or replace the lost or damaged property.

- f. The cost of repair or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

H. DEFINITIONS

1. **"Pollutants"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
2. **"Stock"** means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

CAUSES OF LOSS - SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section F. - Definitions.

A. COVERED CAUSES OF LOSS

When Special is shown in the Declarations, Covered Causes of Loss means RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

1. Excluded in Section B., Exclusions; or
2. Limited in Section C., Limitations;

that follow.

B. EXCLUSIONS

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance or Law, applies whether the loss results from:

- (1) An ordinance or law that is enforced even if the property has not been damaged; or
- (2) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

b. Earth Movement

- (1) Any earth movement (other than sinkhole collapse), such as an earthquake, landslide, mine subsidence or earth sinking, rising or shifting. But if earth movement results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (2) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

...Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168 hour period will constitute a single occurrence.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power or other utility service supplied to the described premises, however caused, if the failure occurs away from the described premises.

But if the failure of power or other utility service results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion does not apply to the Business Income coverage or to Extra Expense coverage. Instead, the Special Exclusion in paragraph B.4.a.(1) applies to these coverages.

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows from a sewer, drain or sump; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or
 - (c) Doors, windows or other openings.

But if Water, as described in g.(1) through g.(4) above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

2. We will not pay for loss or damage caused by or resulting from any of the following:

- a. Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires.

But if artificially generated electrical current results in fire, we will pay for the loss or damage caused by that fire.

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d. (1) Wear and tear;
- (2) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision.
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in 2.d.(1) through (7) results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

- f. Continual or repeated seepage or leakage of water that occurs over a period of 14 days or more.
- g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
 - (1) You do your best to maintain heat in the building or structure; or
 - (2) You drain the equipment and shut off the supply if the heat is not maintained.
- h. Dishonest or criminal act by you, any of your partners, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
 - (1) Acting alone or in collusion with others; or
 - (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.
- i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j. Rain, snow, ice or sleet to personal property in the open.
- k. Collapse, except as provided below in the Additional Coverage for Collapse. But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.
- l. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

3. We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. But if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

- a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the loss or damage.
- b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
- c. Faulty, inadequate or defective:
 - (1) Planning, zoning, development, surveying, siting;
 - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
 - (3) Materials used in repair, construction, renovation or remodeling; or
 - (4) Maintenance;

of part or all of any property on or off the described premises.

4. Special Exclusions

The following provisions apply only to the specified Coverage Forms.

a. Business Income (And Extra Expense) Coverage Form, Business Income (Without Extra Expense) Coverage Form, or Extra Expense Coverage Form

We will not pay for:

- (1) Any loss caused directly or indirectly by the failure of power or other utility service supplied to the described premises, however caused, if the failure occurs outside of a covered building.
But if the failure of power or other utility service results in a Covered Cause of Loss, we will pay for the loss resulting from that Covered Cause of Loss.
- (2) Any loss caused by or resulting from:
 - (a) Damage or destruction of "finished stock"; or
 - (b) The time required to reproduce "finished stock".

This exclusion does not apply to Extra Expense.

(3) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.

(4) Any increase of loss caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration".

(5) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".

(6) Any other consequential loss.

b. Leasehold Interest Coverage Form

(1) Paragraph B.1.a. Ordinance or Law, does not apply to insurance under this Coverage Form.

(2) We will not pay for any loss caused by:

(a) Your canceling the lease;

(b) The suspension, lapse or cancellation of any license; or

(c) Any other consequential loss.

c. Legal Liability Coverage Form

(1) The following Exclusions do not apply to insurance under this Coverage Form:

(a) Paragraph B.1.a., Ordinance or Law;

(b) Paragraph B.1.c., Governmental Action;

(c) Paragraph B.1.d., Nuclear Hazard;

(d) Paragraph B.1.e., Utility Services; and

(e) Paragraph B.1.f., War and Military Action.

(2) The following additional exclusions apply to insurance under this Coverage Form:

(a) Contractual Liability

We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement.

But this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:

(i) Your assumption of liability was executed prior to the accident; and

(ii) The building is Covered Property under this Coverage Form.

(b) Nuclear Hazard

We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

C. LIMITATIONS

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.

a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.

- c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
- (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
 - (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- d. Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft.
- However, this limitation does not apply to:
- (1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or
 - (2) Business Income coverage or Extra Expense coverage.
- e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.
- f. Gutters and downspouts caused by or resulting from weight of snow, ice or sleet.
- g. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
2. We will not pay more than \$500 in any one occurrence for loss of or damage to glass that is part of a building or structure, regardless of the number of panes, plates or similar units of glass. Subject to this \$500 aggregate, we will not pay more than \$100 for any one pane, plate, multiple plate insulating unit, radiant or solar heating panel, jalousie, louver or shutter.

However, this limitation does not apply to:

- a. Loss or damage by the "specified causes of loss", except vandalism; or
- b. Business Income coverage or Extra Expense coverage.

3. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:

- a. Valuable papers and records, such as books of account, manuscripts, abstracts, drawings, card index systems, film, tape, disc, drum, cell or other data processing, recording or storage media, and other records.
- b. Animals, and then only if they are killed or their destruction is made necessary.
- c. Fragile articles such as glassware, statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
 - (1) Glass that is part of a building or structure;
 - (2) Containers of property held for sale; or
 - (3) Photographic or scientific instrument lenses.
- d. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.

However, this limitation does not apply:

- (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
- (2) To Business Income coverage or to Extra Expense coverage.

4. The special limit shown for each category, a. through d., is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:

- a. \$2,500 for furs, fur garments and garments trimmed with fur.
- b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- c. \$2,500 for patterns, dies, molds and forms.

d. \$250 for stamps, tick~~ets~~, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

This limitation, C.4., does not apply to Business Income coverage or to Extra Expense coverage.

5. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:
 - a. Results in discharge of any substance from an automatic fire protection system; or
 - b. Is directly caused by freezing.

However, this limitation does not apply to Business Income coverage or to Extra Expense coverage.

D. ADDITIONAL COVERAGE - COLLAPSE

The term Covered Cause of Loss includes the Additional Coverage - Collapse as described and limited in D.1. through D.5. below.

1. We will pay for direct physical loss or damage to Covered Property, caused by collapse of a building or any part of a building insured under this Coverage Form, if the collapse is caused by one or more of the following:
 - a. The "specified causes of loss" or breakage of building glass, all only as insured against in this Coverage Part;
 - b. Hidden decay;
 - c. Hidden insect or vermin damage;
 - d. Weight of people or personal property;
 - e. Weight of rain that collects on a roof;
 - f. Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation. However, if the collapse occurs after construction, remodeling or renovation is complete and is caused in part by a cause of loss listed in D.1.a. through D.1.e., we will pay for the loss or damage even if use of defective material or methods, in construction, remodeling or renovation, contributes to the collapse.

2. If the direct physical loss or damage does not involve collapse of a building or any part of a building, we will pay for loss or damage to Covered Property caused by the collapse of personal property only if:

- a. The personal property which collapses is inside a building; and
- b. The collapse was caused by a cause of loss listed in D.1.a. through D.1.f. above.

3. With respect to the following property:

- a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
- b. Awnings, gutters and downspouts;
- c. Yard fixtures;
- d. Outdoor swimming pools;
- e. Fences;
- f. Piers, wharves and docks;
- g. Beach or diving platforms or appurtenances;
- h. Retaining walls; and
- i. Walks, roadways and other paved surfaces;

if the collapse is caused by a cause of loss listed in D.1.b. through D.1.f., we will pay for loss or damage to that property only if:

- a. Such loss or damage is a direct result of the collapse of a building insured under this Coverage Form; and
- b. The property is Covered Property under this Coverage Form.

4. Collapse does not include settling, cracking, shrinkage, bulging or expansion.

5. This Additional Coverage - Collapse, will not increase the Limits of Insurance provided in this Coverage Part.

E. ADDITIONAL COVERAGE EXTENSIONS

1. **Property In Transit.** This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.

b. Loss or damage must be caused by or result from one of the following causes of loss:

- (1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.
- (2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the road bed.
- (3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.

c. The most we will pay for loss or damage under this Extension is \$1000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

2. **Water Damage, Other Liquids, Powder or Molten Material Damage.** If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

F. DEFINITION

"Specified Causes of Loss" means the following: Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

1. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
 - a. The cost of filling sinkholes; or
 - b. Sinking or collapse of land into man-made underground cavities.
2. Falling objects does not include loss or damage to:
 - a. Personal property in the open; or
 - b. The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
3. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF ACTS OF BIOLOGICAL OR CHEMICAL TERRORISM; CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM; COVERAGE FOR CERTAIN FIRE LOSSES

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
FARM COVERAGE PART
STANDARD PROPERTY POLICY

A. The following definitions are added with respect to the provisions of this endorsement:

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in that Act for a "certified act of terrorism" include the following:
 - a. The act resulted in aggregate losses in excess of \$5 million; and
 - b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
2. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. However, "other act of terrorism" does not include an act which meets the criteria set forth in Paragraph b. of the definition of "certified act of terrorism", when such act resulted in aggregate losses of \$5 million or less.

B. The following exclusion is added:

Exclusion Of An "Other Act Of Terrorism"

We will not pay for loss or damage caused directly or indirectly by an "other act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. But this exclusion applies only when one or both of the following are attributed to such act:

1. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
2. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

C. Exception Covering Certain Fire Losses

If an "other act of terrorism" results in fire, we will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the exception does not apply to insurance provided under Business Income and/or Extra Expense coverage forms or endorsements which apply to those forms, or to the Legal Liability Coverage Form or the Leasehold Interest Coverage Form.

D. Cap On Certified Terrorism Losses

With respect to any one or more "certified acts of terrorism" under the federal Terrorism Risk Insurance Act of 2002, we will not pay any amounts for which we are not responsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

E. Application Of Other Exclusions

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Part or Standard Property Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

FUNGUS OR BACTERIA LIMITATION AND EXCLUSION

This endorsement modifies insurance provided under the following:

CAUSE OF LOSS - SPECIAL FORM
CAUSE OF LOSS - BROAD FORM
CAUSE OF LOSS - BASIC FORM

THIS ENDORSEMENT INCLUDES RESTRICTIONS AND LIMITATIONS**A. Definitions**

For the purposes of this endorsement, "fungus" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

B. 1. The following exclusion is added to SECTION B - EXCLUSIONS:**Fungus, Wet Rot, Dry Rot and Bacteria**

Loss or damage caused directly or indirectly by the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria.

1. If "fungus", wet or dry rot or bacteria result in one of the following causes of loss, we will pay for the loss or damage by that cause of loss, subject to the Cause of Loss form that applies to your policy:
 - a. a "specified cause of loss" if the CAUSE OF LOSS - SPECIAL FORM or CAUSE OF LOSS - BROAD FORM applies to your policy; or
 - b. a Covered Cause of Loss if the CAUSE OF LOSS - BASIC FORM applies to your policy.
2. This exclusion does not apply:
 - a. When "fungus", wet or dry rot or bacteria result from fire or lightning; or
 - b. To the extent that coverage is provided in the **Limited Coverage For Fungus, Wet Or Dry Rot and Bacteria** described below, with respect to loss or damage by a cause of loss other than fire or lightning.
2. In the CAUSE OF LOSS - SPECIAL FORM, **SECTION B - EXCLUSIONS**, paragraph 2.d(2) is deleted and replaced by the following:

- (2) Rust, corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself.

C. Limited Fungi Or Bacteria Coverage

The following is added as an **Additional Coverage**:

Limited Coverage For Fungi, Wet Rot, Dry Rot And Bacteria.

1. The coverage described in paragraphs 2 and 6 below only applies when the "fungus", wet or dry rot or bacteria is the result of one or more of the following causes that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence:
 - a. a "specified cause of loss", other than fire or lightning, if the CAUSE OF LOSS - SPECIAL FORM or CAUSE OF LOSS - BROAD FORM applies to your policy; or
 - b. a Covered Cause of Loss, other than fire or lightning, if the CAUSE OF LOSS - BASIC FORM applies to your policy.
2. We will pay for loss or damage by "fungus", wet or dry rot or bacteria. As used in this Limited Coverage, the term "loss or damage" means:
 - a. Direct physical loss or damage to covered property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;

- b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
 - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot or bacteria are present.
3. The coverage described under paragraph 2 of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences covered by this Limited Coverage which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungus", wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.
4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungus", wet or dry rot or bacteria and other loss or damage, we will not pay more for the total of all loss or damage than the applicable Limit of Insurance on the affected Covered Property.
- If there is covered loss or damage to Covered Property, not caused by "fungus", wet or dry rot or bacteria, our loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus", wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.
5. The terms of this Limited Coverage do not increase or reduce the coverage provided under the Sprinkler Leakage or Water Damage covered causes of loss; the Water Damage, Other Liquids, Powder or Molten Material Damage Additional Coverage Extension; or the Additional Coverage - Collapse, when they apply to your policy.
6. The following, 6.a. or 6.b. applies only if Business Income and/or Extra Expense coverage applies to the described premises and only if the suspension of operations satisfies all terms and conditions of the applicable Business Income and/or Extra Expense coverage form.
- a. If the loss which resulted in "fungus", wet or dry rot or bacteria does not in itself necessitate a suspension of operations, but such suspension is necessary due to loss or damage to property caused by "fungus", wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
 - b. If a covered suspension of operations was caused by loss or damage other than "fungus", wet or dry rot or bacteria, but remediation of "fungus", wet or dry rot or bacteria prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.
 - c. Coverage provided by paragraphs 6.a. or 6.b. above, is not extended or increased by any coverage for business income or extra expense provided by or endorsed to this policy, unless that business income or extra expense coverage is specifically endorsed or modified to provide coverage for loss caused by or resulting from "fungus", wet or dry rot or bacteria.

Nothing contained here varies, alters or extends any provision of this policy except as provided in this endorsement.

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